CHAPTER 8

Consolidation of Political Subdivisions

**SECTION 4‑8‑10.** Special purpose district defined.

 As used in this chapter, “special purpose district” means any district created by an act of the General Assembly or pursuant to general law and which provides any local governmental service or function including, but not limited to, fire protection, sewerage treatment, water distribution, and recreation. “Special purpose district” also means any rural community water district authorized or created under the provisions of Chapter 13 of Title 6. Special purpose district does not include any state agency, department, or commission.

HISTORY: 1992 Act No. 319, Section 3, eff April 8, 1992.

Editor’s Note

1992 Act No. 319, Section 1 effective April 8, 1992, reads as follows:

“SECTION 1. It is the legislative intent and purpose of this chapter to provide a means for the consolidation of the governmental and corporate functions now vested in municipal corporations and other political subdivisions and with the governmental and corporate functions now vested in the counties in which these municipal corporations and other political subdivisions are located, and to provide a method for the creation of consolidated governments which may be used to fulfill the unique needs and demands in various county areas. This chapter is provided as enabling legislation to be liberally construed as a utilization of the constitutional power granted by Section 12 of Article VIII of the Constitution of South Carolina, 1895.”

CROSS REFERENCES

Joint administration of functions by county, incorporated municipality, special purpose district, or other political subdivision, see Section 4‑9‑41.

LIBRARY REFERENCES

62 C.J.S., Municipal Corporations Sections 85‑87.

**SECTION 4‑8‑20.** Authorization to create consolidated government charter commission; creation; membership and appointment; vacancies.

 (A) The governing body of any county is authorized to create a consolidated government charter commission subject to the provisions of subsection (B) of this section. The commission shall consist of eighteen members, all of whom must be residents of the county.

 (1) The governing body of the county shall appoint six members of the commission, at least four of whom shall reside outside the corporate limits of the largest municipality in the county, with no more than two county appointees being elected officials.

 (2)(a) Six members of the commission must be residents of the incorporated municipalities within the county.

 (b) The total population of all incorporated municipalities within the county, as determined by the most recent United States census, must be divided by six, the result being an apportionate average. The respective population of each municipality in the county must be divided by the apportionate average to determine any appointive index.

 (c) Each municipality in the county shall appoint a number of members to the commission equal to the whole number indicated by their appointive index. However, no single municipality may appoint more than four members to the commission. No more than two municipal elected officials may be members of the commission. The option to appoint a municipal elected official is with the two municipalities with the largest population.

 (d) When less than six members are selected to the commission in accordance with the prescribed appointive index method, the remaining member or members must be selected in a joint meeting of the charter commission appointees of the municipalities in the county. The member or members must be chosen from among the residents of the municipalities in the county which before this time have not provided a representative for the commission.

 (3)(a) Each special purpose district in the county may appoint a member to the commission equal to the nearest whole number indicated by their appointive index. However, no single special purpose district may appoint more than four members to the commission. No more than two officials from special purpose districts in the county may be members of the commission. The option to appoint a special purpose district official is with the two special purpose districts with the largest population. In no case may there be less than one member of the commission representing special purpose districts when a special purpose district exists within the county.

 (b) The total population of all special purpose districts within the county, as determined by the most recent United States census, must be divided by six, the result being an apportionate average. The respective population of each special purpose district in the county must be divided by the apportionate average to determine any appointive index.

 (c) When less than six members are selected to the commission in accordance with the prescribed appointive index method, the remaining member or members of the charter commission must be selected in a joint meeting of the charter commission appointees of the special purpose districts in the county. The member or members must be chosen from among the residents of the special purpose districts in the county which before this time have not provided a representative for the commission.

 (B) If the governing body of any county creates a commission, it must be created in accordance with the procedures specified in subsection (A) and only upon the request of the governing body of the county or upon petition of not less than ten percent of the registered electors within the county. The petition must contain the signatures of not less than ten percent of persons registered to vote in the county. Petitions must be certified as valid or rejected by the county board of registration within thirty days and if certified, must be filed with the governing body which shall create a charter commission within thirty days after certification. If within the thirty‑day period one or more of the municipalities or special purpose districts fails or refuses to appoint their proportionate number of members to the commission, the county governing body shall appoint an additional number of members equal to the number that any such municipality or special purpose district is entitled to appoint. A vacancy on the commission must be filled in the manner of the original appointment.

HISTORY: 1992 Act No. 319, Section 3, eff April 8, 1992.

LIBRARY REFERENCES

62 C.J.S., Municipal Corporations Sections 85‑87.

Attorney General’s Opinions

A county is obligated to create a charter commission within thirty days of receiving a certified petition. S.C. Op.Atty.Gen. (January 26, 2016) 2016 WL 963707.

When a charter commission is initiated and created pursuant to a resolution of the county governing body, the county governing body would have the authority to appoint a municipality’s member in the event that the municipality fails to respond or responds that it has chosen not to make its appointment. 1992 Op Atty Gen No 92‑73.

A municipality’s failure or refusal to make its allotted appointments would not, by itself, cause the municipality to be excluded from the proposed charter of the consolidated political subdivision. 1992 Op Atty Gen No 92‑73.

A court construing the term “shall” in Section 4‑8‑20(A)(2)(c) would most probably view the term as directory. Once a charter commission has been created and a municipality does not, for whatever reason, appoint its allotted members, county council would then appoint those members so that the charter commission’s work will proceed according to the statutory timetable in Act No. 319 of 1992. 1992 Op Atty Gen No 92‑73.

**SECTION 4‑8‑30.** Convening of commission; selection of officers; rules; quorum; compensation; expenses; employment of staff; contracts for special studies for preparation of charter.

 (A) Within ten days following the appointment of all the members of the commission, it is the duty of the chairman of the county governing body to call an organizational meeting of the commission and to set the date, time, and location of the meeting.

 (B) The first order of business at the organizational meeting is the election of the permanent chairman who must be elected by majority vote of the members of the commission.

 (C) After organization and election of a permanent chairman, the commission shall elect a secretary, who need not be a member, and such other officers as it considers necessary. The commission shall adopt rules to govern the conduct of its business as it considers necessary. A majority of members of the commission constitutes a quorum for the transaction of business, but no recommendation of the commission may be included in the proposed charter unless adopted by a two‑thirds vote of all of the members of the commission.

 (D) The members of the commission shall receive no compensation for their services except reimbursement for actual expenses incurred by them in carrying out their duties as members of the commission. The governing body of the county and the governing bodies of municipalities and special purpose districts within the county are authorized to expend public funds in carrying out the provisions of this chapter.

 (E) The commission is authorized to employ such staff and contract with such consultants as it considers necessary to conduct special studies and assemble information for preparation of the charter subject to the limitation of funds made available to it. No person who holds an elected public office may be employed by the commission.

HISTORY: 1992 Act No. 319, Section 3, eff April 8, 1992.

LIBRARY REFERENCES

62 C.J.S., Municipal Corporations Sections 85‑87.

**SECTION 4‑8‑40.** Preliminary study; draft of proposed charter; provisions allowable in proposed charter.

 The commission is authorized to study all matters relating to the establishment of a single countywide government within the county to be known as a consolidated political subdivision which has powers and jurisdiction throughout the territorial limits of the county and which shall supersede and replace the existing participating governments of the county and of all participating municipalities and all other participating political subdivisions in the county not continued by the charter. For those purposes the commission is authorized to draft a proposed consolidated government charter which may include any provisions necessary to effectuate the purposes of this chapter. To that end and without limiting the generality of the foregoing, the commission is authorized to draft a proposed charter which may provide any one or more of the following:

 (1) For the abolishment of specified existing governments within the county and for the creation of a new single government having all the powers formerly exercised by the county, special and public service districts, and the municipalities within the county and having such other powers as may be necessary or desirable, including those rights, powers, duties, and liabilities as are now or may be vested in counties or municipalities, or both, by the Constitution or by other provisions of law. However, in those counties where a special purpose district elects to exclude itself from consolidation pursuant to Section 4‑8‑95, the remaining special purpose districts shall continue to operate as if no consolidation had taken place for the purpose of its special purpose only. The form and composition of the new consolidated political subdivision is as authorized for counties pursuant to the provisions of Chapter 9 of Title 4. However, in those counties in which there is located a municipality whose boundaries encompass more than one county, the governing body of that municipality shall make a recommendation to the charter commission as to how that municipality shall comply with the provisions of this section. The commission shall include the recommendations of that municipality in the charter submitted to the qualified electors of the county pursuant to the provisions of Section 4‑8‑80. No changes in the recommendation by the municipality may be made by the charter commission.

 (2) For the new consolidated political subdivision to be eligible to have, hold, enjoy, and be entitled to any assistance, credits, benefits, monies, grants, grants‑in‑aid, funds, loans, aid, appropriations, and matching funds to the same extent that any county, municipality, or other political subdivisions of the State is entitled or by any other provision of law or under any present or future state or federal programs.

 (3) For the abolishment of any public authorities, public service and special purpose districts, boards, and commissions created under acts of the General Assembly relating specifically to the county, public service or special purpose districts, or municipalities concerned and for the transfer of all powers, duties, and obligations of the authorities and special purpose districts to the consolidated political subdivision in the manner provided in the charter. However, the charter may also provide that specified public service districts and special purpose districts may continue to perform the functions assigned to them by law under the supervision of district governing bodies existing prior to the consolidation except that, for those special purpose districts which elect to be excluded from consolidation pursuant to Section 4‑8‑95, the charter must provide that the special purpose district electing to be excluded may, as permitted under this chapter, continue to perform the functions assigned to them by law as existing before the consolidation.

 (4) For the abolishment of any public offices, positions of public employment of the county and of any municipality within the county, created by law of the State, and positions of public employment with any public authorities or special purpose districts located and operated within the county, excluding constitutional officers, members of the judiciary, and persons employed by or elected to serve in the public school system.

 (5) For the creation of the governing body of the consolidated political subdivision, including the number of members, their powers, duties, terms of office, manner of election, compensation, method of removal, and all other matters of the governing body subject only to constitutional limitation.

 (6) For the creation, modification, and abolishment of various departments, offices, advisory boards, advisory commissions, and positions of public employment of the consolidated political subdivision, all of which must be subordinate branches or employees of the consolidated political subdivision, and all other matters related to it.

 (7) For the assumption by the consolidated political subdivision of all bonded indebtedness and all other obligations of whatever kind of all governmental units, public authorities, public service, and special purpose districts which are consolidated by the consolidated government charter and the method by which the consolidated political subdivision shall assume the payment of obligations issued under the Constitution and law of this State.

 (8) For the purposes for which the consolidated political subdivision or an agency of it may levy any type tax authorized by law for counties and municipalities and the debt limitations applicable to the consolidated political subdivision or an agency of it, subject to constitutional limitations. As used in this item the term “taxes” includes uniform service charges based on services provided which may be levied in conjunction with or in lieu of ad valorem taxes.

 (9) For the creation of several classifications of taxing districts by which taxes must be assessed, levied, and collected by the consolidated political subdivision in accordance with the kind, character, type, and degree of services provided within the taxing districts, including a general service district which consists of the total area of the county, and in which must be provided such services as are generally required or demanded by all citizens of the county. The rate and manner of taxation may vary in any one district from that in other districts.

 (10) For a method by which the taxing districts are created, other than the general services district, may be expanded or reduced in area, or transformed from one tax district classification to another and a system by which no district may be taxed in any way for services, functions, or programs that are not available or provided to the citizens or property owners of that district.

 (11) For the method or methods by which the consolidated political subdivision may be dissolved. Any proposal to disband or dissolve a consolidated political subdivision is not authorized until a consolidated political subdivision has been in existence for a minimum of four years.

 (12) For the method or methods by which the charter of the consolidated political subdivision may be amended and municipalities or special purpose districts of the county not included in the initial boundaries of the consolidated political subdivision if any may be annexed to it.

HISTORY: 1992 Act No. 319, Section 3, eff April 8, 1992.

LIBRARY REFERENCES

62 C.J.S., Municipal Corporations Sections 85‑87.

**SECTION 4‑8‑50.** Completion of studies and draft of charter within twelve months; extension of time.

 The commission shall complete all of its studies and draft a proposed charter within twelve months following the date of its initial appointment. The period for the work of the commission may be extended by resolution adopted by the governing body of the county upon a written request submitted by the chairman of the charter commission and approved by a majority vote of the commission’s members.

HISTORY: 1992 Act No. 319, Section 3, eff April 8, 1992.

LIBRARY REFERENCES

62 C.J.S., Municipal Corporations Sections 85‑87.

**SECTION 4‑8‑60.** Matters involving public education not affected.

 Nothing in this chapter may be construed to authorize any commission created pursuant to this chapter to devolve any additional powers upon consolidated political subdivisions with regard to public school education or school districts or to abolish any school district within the county or transfer any of its powers, duties, and obligations to the consolidated political subdivision. County boards of education and boards of trustees shall continue to perform their statutory functions in matters related to them as prescribed in the Constitution and the general law of the State.

HISTORY: 1992 Act No. 319, Section 3, eff April 8, 1992.

LIBRARY REFERENCES

62 C.J.S., Municipal Corporations Sections 85‑87.

**SECTION 4‑8‑70.** Public hearings; notice; certification and filing of proposed charter; public nature of records; informing public.

 (A) During the course of its studies, the commission is required to hold at least three public hearings to determine the sentiment of the citizens of the county regarding the work of the commission. The commission shall advertise the date, time, and place of the hearings in a newspaper of general circulation in the county at least twice during the week immediately preceding the week in which public hearings are to be held.

 (B) Immediately upon the completion of its work and the framing of a proposed charter for the creation of a consolidated political subdivision within the county, the proposed charter must be filed by the commission with the clerk of the governing body of the county and with the clerk of the governing body of each of the municipalities within the county and must be certified by the chairman of the commission. The copies are public records and available for inspection or examination by any interested person.

 (C) The commission shall take such steps as it considers reasonable and appropriate to inform the public throughout the county of the contents of the proposed charter.

HISTORY: 1992 Act No. 319, Section 3, eff April 8, 1992.

LIBRARY REFERENCES

62 C.J.S., Municipal Corporations Sections 85‑87.

**SECTION 4‑8‑80.** Election by all qualified voters of county; notice and publication; form of ballot.

 Not more than thirty days after the receipt of the certified copy of the proposed charter, the governing body of the county shall call for an election for the purpose of submitting the question of consolidation and the proposed charter to all of the qualified voters of the county including those residing in municipalities continued by the charter for approval or rejection. The county governing body shall set the date of the election for a day not less than sixty nor more than ninety days after the issuance of the call. The county shall publish the date and purpose of the election once a week for three weeks immediately preceding the date of the election in a newspaper of general circulation in the county. The ballot must have written or printed on it the following:

 “Must a consolidated political subdivision be formed and the proposed charter framed for it to be adopted in \_\_\_\_\_\_\_\_\_\_ County?

In favor of consolidation \_\_\_\_\_\_\_\_\_\_

Opposed to consolidation \_\_\_\_\_\_\_\_\_\_

 Persons desiring to vote in favor of consolidation, the proposed charter, and for the creation of a consolidated political subdivision shall vote for approval and those persons desiring to vote for rejection of consolidation and the proposed charter shall vote against approval.”

HISTORY: 1992 Act No. 319, Section 3, eff April 8, 1992.

CROSS REFERENCES

Consolidated government charter commission to include, in proposed charter, recommendations of municipality pertaining to charter, see Section 4‑8‑40.

This section as one method for presenting question of consolidation and adoption of charter, see Section 4‑8‑90.

LIBRARY REFERENCES

62 C.J.S., Municipal Corporations Sections 85‑87.

**SECTION 4‑8‑90.** Methods for presenting question of consolidation and adoption of charter; effect of unsuccessful election; conduct of, and expenses of, election.

 (A) The charter study commission must select one of the following methods of presenting the question of consolidation and the adoption of the charter:

 (1) The charter for the creation of a consolidated political subdivision is effective upon the approval of a majority of the qualified electors of the county voting on the question as provided in Section 4‑8‑80; or

 (2) If the charter for the creation of a consolidated political subdivision is approved by the qualified electors of the county as required by item (1) of this section but not approved by a majority of the qualified electors voting on the question in a municipality or special purpose district, the charter is void and of no force and effect only in that municipality or special purpose district.

 (B) If the charter and consolidation do not become effective for any of the reasons enumerated in subsection (A), another charter commission may not be created in the county for at least four years from the date of the unsuccessful election.

 (C) The expense of the election must be borne by the county and be conducted in accordance with procedures governing county elections under the general law.

HISTORY: 1992 Act No. 319, Section 3, eff April 8, 1992.

CROSS REFERENCES

Inapplicability of duties, rights, etc. of consolidated government to municipality or special purpose district as consequence of provisions of this section, see Section 4‑8‑140.

LIBRARY REFERENCES

62 C.J.S., Municipal Corporations Sections 85‑87.

**SECTION 4‑8‑95.** Election of city or special purpose district to be excluded from consolidation.

 (A) A special purpose district or city may elect to exclude itself from consolidation.

 (B) In each election held pursuant to this chapter, votes cast must be counted and recorded by municipality and by special purpose district. A majority vote in opposition to the consolidation from the municipality or special purpose district must be construed as a decision to be excluded from consolidation.

HISTORY: 1992 Act No. 319, Section 3, eff April 8, 1992.

CROSS REFERENCES

Operation of special purpose districts when special purpose district elects to be excluded from consolidation, see Section 4‑8‑40.

Procedure for inclusion of municipality or special purpose district in consolidated political subdivision after election to be excluded, see Section 4‑8‑120.

LIBRARY REFERENCES

62 C.J.S., Municipal Corporations Sections 85‑87.

**SECTION 4‑8‑100.** Certified copy of adopted charter for consolidation furnished to Secretary of State with election returns; proclamation of results.

 Whenever a charter for the consolidation of any county and the municipalities and other political subdivisions within the county has been adopted, the county governing body shall furnish a certified copy of the charter with returns of the special election provided for in this chapter to the Secretary of State. The Secretary of State shall issue his proclamation showing and declaring the results of the election on the adoption of the proposed charter. One copy of the proclamation must be attached to a copy of the charter certified to the Secretary of State and one copy must be delivered to the clerk of the governing body of the county and the clerks of the governing bodies of the respective municipalities of the county.

HISTORY: 1992 Act No. 319, Section 3, eff April 8, 1992.

LIBRARY REFERENCES

62 C.J.S., Municipal Corporations Sections 85‑87.

**SECTION 4‑8‑110.** When government of consolidated political subdivision becomes effective; governing body to implement provisions of charter.

 The government for the consolidated political subdivision becomes effective within the county concerned when the governing body of the consolidated political subdivision has been elected and the members of the consolidated political subdivision qualified in accordance with the provisions of the charter and the governing body shall take all actions necessary to implement the provisions of the charter.

HISTORY: 1992 Act No. 319, Section 3, eff April 8, 1992.

LIBRARY REFERENCES

62 C.J.S., Municipal Corporations Sections 85‑87.

**SECTION 4‑8‑120.** Subsequent inclusion of municipality or special purpose district in consolidated political subdivision; referenda.

 (A) Any municipality initially not included in the consolidated political subdivision created under the provisions of this chapter, may, at any future time, surrender its certificate of incorporation and become part of the consolidated political subdivision under the terms and conditions and in accordance with the procedures prescribed in the charter. However, no municipality shall become part of the consolidated political subdivision until consolidation of that municipality is approved by a favorable vote of a majority of the electors of the particular municipality concerned and a majority of the governing body of the consolidated political subdivision.

 (B) Any special purpose district initially not included in the consolidated political subdivision created under the provisions of this chapter may, at any future time, become part of the consolidated political subdivision under such terms and conditions and in accordance with the procedures prescribed in the charter. No special purpose district may become part of the consolidated political subdivision until consolidation of that special purpose district is approved by a favorable vote of a majority of the electors of the consolidated political subdivision voting in a referendum and a majority of the qualified electors voting in a referendum in the particular special purpose district concerned.

 (C) The referendum is a special election called only for the purpose of determining whether or not the municipality or special purpose district shall become a part of the consolidated political subdivision.

HISTORY: 1992 Act No. 319, Section 3, eff April 8, 1992.

CROSS REFERENCES

Election of municipality or special purpose district to be excluded from consolidated political subdivision, see Section 4‑8‑95.

LIBRARY REFERENCES

62 C.J.S., Municipal Corporations Sections 85‑87.

**SECTION 4‑8‑130.** Zoning ordinances and regulations not affected.

 The creation and establishment of a consolidated government pursuant to this chapter does not alter or change zoning regulations or other ordinances effective in the county or the municipalities consolidated, and the regulations or ordinances continue until modified or changed by the consolidated council acting under authority granted through the charter of the consolidated government.

HISTORY: 1992 Act No. 319, Section 3, eff April 8, 1992.

LIBRARY REFERENCES

62 C.J.S., Municipal Corporations Sections 85‑87.

**SECTION 4‑8‑140.** Rights, obligations, duties and privileges of consolidated government; ownership of property, assets, contracts and franchises; inapplicability to municipality or special purpose district that does not approve charter.

 Any consolidated government established under this chapter acquires and succeeds to all rights, obligations, duties, and privileges of the county and in the municipalities and other political subdivisions consolidated. Without the necessity or formality of deed, bill of sale, or other instrument of transfer, the consolidated government becomes the owner of all property, assets, contracts, and franchises previously belonging to the county and consolidated municipalities and other political subdivisions and special purpose districts in the consolidated political subdivision except school districts. However, if a majority of the qualified electors voting on the question of consolidation in a municipality or special purpose district do not approve the charter as provided under Section 4‑8‑90(B), this section does not apply to the municipality or special purpose district.

HISTORY: 1992 Act No. 319, Section 3, eff April 8, 1992.

**SECTION 4‑8‑150.** Furnishing of electric services within consolidated political subdivision.

 Except as provided in Section 58‑27‑20, the furnishing of electric service or the construction of facilities for the furnishing of electric service within a consolidated political subdivision is governed by the provisions of Title 58 of Chapter 27, Section 5‑7‑60, and, in unassigned territory, Section 6‑21‑400.

HISTORY: 1992 Act No. 319, Section 3, eff April 8, 1992.