CHAPTER 5

Qualifications and Registration of Electors

ARTICLE 1

County Boards of Voter Registration and Elections

**SECTION 7‑5‑10.** Appointment of board members; previous offices abolished; training and certification requirements.

 (A)(1) The Governor shall appoint, upon the recommendation of the legislative delegation of the counties, competent and discreet persons in each county, who are qualified electors of that county and who must be known as the “Board of Voter Registration and Elections of \_\_\_\_\_\_\_\_\_ County”. The total number of members on the board must not be less than five nor more than nine persons. At least one appointee on the board shall be a member of the majority political party represented in the General Assembly and at least one appointee shall be a member of the largest minority political party represented in the General Assembly.

 (2) After their appointment, the board members must take and subscribe, before any officer authorized to administer oaths, the following oath of office prescribed by Section 26, Article III of the Constitution: “I do solemnly swear (or affirm) that I am duly qualified, according to the Constitution of this State, to exercise the duties of the office to which I have been elected (or appointed), and that I will, to the best of my ability, discharge the duties thereof, and preserve, protect and defend the Constitution of this State and of the United States. So help me God.”

 (3) The oath must be filed immediately in the office of the clerk of court of common pleas of the county in which the commissioners are appointed, or if there is no clerk of court, in the office of the Secretary of State.

 (4) The Governor shall notify the State Election Commission in writing of the appointments. The members appointed are subject to removal by the Governor for incapacity, misconduct, or neglect of duty.

 (B)(1) The Governor shall appoint the initial appointees within six months of the effective date of this section. Four of the initial appointees shall serve two‑year terms, and the remaining initial appointees shall serve four‑year terms. Upon expiration of the terms of those members initially appointed, the term of office for the members of the board is four years, and until their successors are appointed and qualify. Members may succeed themselves.

 (2) A member must be present at a meeting in order to vote.

 (3) If a member misses three consecutive meetings of the board, the chairman or his designee immediately shall notify the Governor who shall then remove the member from office.

 (4) In case of a vacancy on the board, the vacancy must be filled in the same manner as an original appointment, as provided in this section, for the unexpired term.

 (5) The board shall elect from among its members a chairman and such other officers as it may consider desirable. The board shall then notify the State Election Commission in writing of the name of the persons elected as chairman and officers of the board. Each officer shall be elected for a term of two years.

 (6) The board must hire a director. The director is responsible for hiring and managing the staff. Staff positions are subject to the personnel system policies and procedures by which all county employees are regulated, except that the director serves at the pleasure of the board. A member of the board must not be hired or serve as a member of the staff while serving as a board member.

 (7) Members of the board and its staff shall receive compensation as may be appropriated by the governing body of the county.

 (C) The previous offices of county election commissions, voter registration boards, or combined boards are abolished. The powers and duties of the county election commissions, voter registration boards, or combined boards are devolved upon the board of voter registration and elections for each county created in subsection (A). Those members currently serving on the county election commissions, voter registration boards, or combined boards shall continue to serve in a combined governing capacity until at least five members of the successor board members established under this section are appointed and qualify.

 (D)(1) Each member, and each staff person designated by the board, must complete, within eighteen months after a member’s initial appointment or his reappointment following a break in service, or within eighteen months after a staff person’s initial employment or reemployment following a break in service, a training and certification program conducted by the State Election Commission. When a member or staff person has successfully completed the training and certification program, the State Election Commission must issue the member or staff person a certification, whether or not the member or staff person applies for the certification.

 (2) If a member does not fulfill the training and certification program as provided in this section, the Governor, upon notification, must remove that member from the board unless the Governor grants the member an extension to complete the training and certification program based upon exceptional circumstances.

 (3) Following completion of the training and certification program required in item (1), each board member, and each staff person designated by the board or commission, must take at least one training course each year.

HISTORY: 1962 Code Section 23‑51; 1952 Code Section 23‑51; 1950 (46) 2059; 1967 (55) 634; 1970 (56) 2337; 1988 Act No. 422, Section 1, eff March 28, 1988; 1996 Act No. 465, Section 1, eff August 21, 1996; 1998 Act No. 304, Section 1, eff May 27, 1998; 2007 Act No. 100, Section 1, eff June 18, 2007; 2014 Act No. 196 (S.815), Section 3, eff June 2, 2014.

Effect of Amendment

The 1988 amendment replaced “shall be” with “are”, deleted “citizens and” preceding “qualified”, replaced “thereof” with “of that county”, replaced “shall” with “must”, and added the sentence requiring the governor to notify the commission of the appointments in writing.

The 1996 amendment added the final sentence.

The 1998 amendment, in the second paragraph, in the first sentence inserted “and such staff as designated by the board” and added the second sentence.

The 2007 amendment designated subsections (A) and (B) and rewrote subsection (B) relating to training and certification requirements.

2014 Act No. 196, Section 3, rewrote the section.

CROSS REFERENCES

Constitutional provisions regarding registration of voters, see SC Const, Art 2, Section 8.

LIBRARY REFERENCES

29 C.J.S., Elections Section 42.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Elections Section 9, Duties of the State Election Commission.

S.C. Jur. Elections Section 16, Appointment.

S.C. Jur. Elections Section 17, Duties.

Attorney General’s Opinions

Discussion of the proper procedures for appointing members to the Board of Voter Registration and Elections of Richland County. S.C. Op.Atty.Gen. (July 24, 2014) 2014 WL 3886693.

Discussion of a memorandum of understanding that was presented to the Pickens County Board of Voter Registration and Elections by the Pickens County Council to set forth terms and conditions for any appropriation to meet the expenses of the Board. S.C. Op.Atty.Gen. (June 30, 2014) 2014 WL 3352175.

Although Section 7‑5‑10 does not expressly give the Governor authority to appoint the chairperson of the Richland County Board of Voter Registration, the Richland County Code of Ordinance does give such authority and should be followed. S.C. Op.Atty.Gen. (July 1, 2010) 2010 WL 3048334.

The county administrator has no authority over the disbursement of the county board of registration members annual supplement as the disbursement is controlled by Section 7‑5‑40 and the 1993‑94 General Appropriations Bill. 1994 Op Atty Gen, No. 94‑16, p. 37.

Where the membership of the county board was decreased, the annual supplement should be divided equally among the remaining members of the board. 1994 Op Atty Gen, No. 94‑16, p. 37.

Individual who pleaded guilty to “official misconduct in public office” would not be disqualified from registering to vote or prohibited from seeking public office. Whether individual is otherwise qualified for appointment to public office is decision to be made by appointing authority. 1993 Op Atty Gen No. 93‑21.

When the General Assembly is not in session the Governor has the power to fill appointed positions requiring the consent of the Senate, with the terms of these appointed positions extending until the adjournment of the next session of the General Assembly. 1974‑75 Op Atty Gen, No. 4180, p 234.

When vacancies exist in offices held by members appointed two years prior and not subsequently appointed, Governor may fill such vacancies at any time. 1969‑70 Op Atty Gen, No. 2862, p 99.

Clerical help. Members of the boards of registration appointed may employ such clerical help as is necessary to perform the necessary duties when funds therefor are available. 1963‑64 Op Atty Gen, No. 1732, p 221.

NOTES OF DECISIONS

In general 1

1. In general

Senate given power to correct mistakes in appointment of supervisor. Under this section the Senate has the right and power to correct any mistakes or irregularity in the appointment of a supervisor. State v. Tollison (S.C. 1915) 100 S.C. 165, 84 S.E. 819.

Regularity of appointment may be questioned by consulting journals. The court may go beyond and behind an appointment which has been duly enrolled and ratified by the two houses and signed by the proper persons, and may consult the journals and see that there have been no irregularities or mistakes in such appointment. State v. Tollison (S.C. 1915) 100 S.C. 165, 84 S.E. 819.

Governor given the power of appointment when Senate is not in session. This section manifestly gives the Governor the right to appoint when the Senate is not in session, and his appointees can hold under that appointment until it is confirmed by the Senate for two years from the date of the appointment, or the holding terminated by the Senate’s failure to approve. And when in session such appointees are entitled to compensation as against the old members who refused to give up their office from the time of appointment to the nonconfirmation. Mitchell v. Jones (S.C. 1913) 94 S.C. 487, 78 S.E. 528.

**SECTION 7‑5‑20.** Deputy members of boards.

 The board of voter registration and elections of each county may appoint deputy members of the board, in numbers as may be necessary, whose terms shall be for a period of time as determined by the boards. The deputy members shall have the same powers and duties as regular members of the board. The clerk to each board may be made a deputy member of the board for the purpose of taking applications.

HISTORY: 1962 Code Section 23‑51.1; 1967 (55) 634; 1984 Act No. 510, Section 2, eff June 28, 1984; 2014 Act No. 196 (S.815), Section 4, eff June 2, 2014.

Effect of Amendment

The 1984 amendment deleted “and issuing certificates” at the end of the third sentence, changed “deemed advisable” to “determined” in the first sentence, and made certain grammatical changes.

2014 Act No. 196, Section 4, substituted “board of voter registration and elections” for “board of registration”.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Elections Section 18, Deputy Registrars.

Attorney General’s Opinions

County boards of registration are not restricted by statute to appointing deputy registrars only during those years and times when election is imminent; their discretionary power may be exercised at any time. 1985 Op Atty Gen, No. 85‑110, p 309.

**SECTION 7‑5‑30.** Duties of boards.

 Such boards shall register and conduct the registration of the electors who shall apply for registration in their respective counties as herein required. Their office shall be at the county seat, and they shall keep a record of all their official acts and proceedings. Provided, that nothing herein shall be construed as prohibiting the boards of registration from taking their registration books across adjoining county lines to register qualified electors of their respective county whose regular place of employment is in an adjoining county or who are otherwise unable to get to the county seat during office hours to register. One member of the board shall constitute a quorum for the purpose of registering or refusing to register applications for registration.

HISTORY: 1962 Code Section 23‑52; 1952 Code Section 23‑52; 1950 (46) 2059; 1967 (55) 634; 1978 Act No. 391, eff Feb. 2, 1978; 2014 Act No. 196 (S.815), Section 5, eff June 2, 2014.

Effect of Amendment

The 1978 amendment added, as the third sentence, a proviso, authorizing the boards to take registration books across adjoining county lines in order to register a certain class of qualified electors.

2014 Act No. 196, Section 5, deleted the last two sentences relating to terms of office and vacancies.

LIBRARY REFERENCES

29 C.J.S., Elections Section 43.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Elections Section 16, Appointment.

S.C. Jur. Elections Section 17, Duties.

S.C. Jur. Elections Section 29, Alternative Places and Procedures to Register.

Attorney General’s Opinions

Simultaneously serving as a member of the Richland County Board of Voter Registration and working as staff for the Richland County Department of Voter Registration would be a conflict under Bradley v. City Council of City of Greenville , 212 S.C. 389, 46 S.E.2d 291 (1948). S.C. Op.Atty.Gen. (July 1, 2010) 2010 WL 3048334.

When the General Assembly is not in session the Governor has the power to fill appointed positions requiring the consent of the Senate, with the terms of these appointed positions extending until the adjournment of the next session of the General Assembly. 1974‑75 Op Atty Gen, No 4180, p 234.

When vacancies exist in offices held by members appointed two years prior and not subsequently appointed, Governor may fill such vacancies at any time. 1969‑70 Op Atty Gen, No. 2862, p 99.

Functions of board may be conducted by as few as one board member. 1967‑68 Op Atty Gen, No. 2468, p 136.

Duties of registering voters may be alternated. A county registration board may alternate between its members the duties of registering voters and may dispense with deputy members and registration clerks. 1967‑68 Op Atty Gen, No. 2468, p 136.

**SECTION 7‑5‑35.** Repealed by 2014 Act No. 196, Section 7, eff June 2, 2014.

Editor’s Note

Former Section 7‑5‑35 was titled Combined election and registration commission; applicability of provisions for inclusion of majority and minority party representatives; training and certification requirements and was derived from 1992 Act No. 253, Section 15, eff Feb 19, 1992; 1996 Act No. 465, Section 2, eff August 21, 1996; 1998 Act No. 304, Section 2, eff May 27, 1998; 2007 Act No. 100, Section 2, eff June 18, 2007.

**SECTION 7‑5‑40.** Supplements to counties to help defray expenses of registration office.

 Each county shall receive an annual supplement from the State to help defray the expenses of personnel in keeping the registration office open as required in Section 7‑5‑130. Counties with populations from twenty‑five thousand to one hundred thousand shall receive twice the amount of such supplement; counties with populations from one hundred thousand one to two hundred thousand shall receive three times the amount of the supplement; counties with over two hundred thousand shall receive four times the amount of the supplement. Such supplements shall be in such amounts as provided for in the annual general appropriations act of the State.

HISTORY: 1962 Code Section 23‑51.2; 1967 (55) 634.

ARTICLE 3

Requirement of and Qualifications for Registration

**SECTION 7‑5‑110.** Persons must register in order to vote.

 No person shall be allowed to vote at any election unless he shall be registered as herein required.

HISTORY: 1962 Code Section 23‑61; 1952 Code Section 23‑61; 1950 (46) 2059; 1967 (55) 634.

CROSS REFERENCES

Right of suffrage, see SC Const, Art 2.

LIBRARY REFERENCES

29 C.J.S., Elections Section 38.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Elections Section 32, Form.

United States Supreme Court Annotations

Equal protection, elections, right to vote, government issued photo identification, see Gonzalez v. U.S., 2008, 128 S.Ct. 1765, 553 U.S. 242, 170 L.Ed.2d 616.

NOTES OF DECISIONS

In general 1

1. In general

One who does not allege that he was registered or does not allege that he made application to be registered, but who may have been entitled to apply for registration, is not in such a position that he may impugn the constitutionality of this and the following sections, on the grounds that it in effect required a longer residence in the county than required by the Constitution of the State, and that it in other ways impeded the exercise of the constitutional right of voting. Wiley v. Sinkler (U.S.S.C. 1900) 21 S.Ct. 17, 179 U.S. 58, 45 L.Ed. 84. Constitutional Law 703

Since it is a prerequisite in South Carolina to register before voting, it is clear that registering is a necessary and vital part of participating in a Federal or general election, where members of Congress are to be elected. U.S. v. Ellis, 1942, 43 F.Supp. 321. Election Law 107

One may be a qualified elector in the area to be incorporated, but disqualified to vote in an incorporation election because actually residing elsewhere. Brisben v. Thornton (S.C. 1972) 258 S.C. 524, 189 S.E.2d 827.

An injunction at the instance of a voter to restrain a supervisor of registration from turning his registration book over to the manager of election, based on the grounds that this section is unconstitutional, will not lie. Ex parte Lumsden (S.C. 1894) 41 S.C. 553, 19 S.E. 749. Injunction 1343

**SECTION 7‑5‑120.** Qualifications for registration; persons disqualified from registering or voting.

 (A) Every citizen of this State and the United States who applies for registration must be registered if he meets the following qualifications:

 (1) meets the age qualification as provided in Section 4, Article II of the Constitution of this State;

 (2) is not laboring under disabilities named in the Constitution of 1895 of this State; and

 (3) is a resident in the county and in the polling precinct in which the elector offers to vote.

 (B) A person is disqualified from being registered or voting if he:

 (1) is mentally incompetent as adjudicated by a court of competent jurisdiction; or

 (2) is serving a term of imprisonment resulting from a conviction of a crime; or

 (3) is convicted of a felony or offenses against the election laws, unless the disqualification has been removed by service of the sentence, including probation and parole time unless sooner pardoned.

HISTORY: 1962 Code Section 23‑62; 1952 Code Section 23‑62; 1950 (46) 2059; 1961 (52) 50; 1963 (53) 155; 1967 (55) 657; 1974 (58) 2188; 1981 Act No. 1 Section 2, eff January 14, 1981; 1986 Act No. 345, Section 1, eff March 7, 1986; 1994 Act No. 365, Section 1, eff May 3, 1994; 1996 Act No. 408, Section 1, eff on the ratification of the amendment to Section 4, Article II of the Constitution of this State to change the age qualification to vote (ratified March 25, 1997).

Editor’s Note

1981 Act No. 1, Section 2A, provides as follows:

“Section 2A. The provision of paragraph (b) of Section 7‑5‑120, as amended in Section 2, shall apply to all persons falling within the amended provision regardless of the date of their conviction.”

Effect of Amendment

The 1981 amendment inserted the words “a felony” in paragraph (b) in place of the words “burglary, arson, obtaining goods or money under false pretenses, perjury, forgery, robbery, bribery, adultery, bigamy, wife‑beating, housebreaking, receiving stolen goods, breach of trust with fraudulent intent, fornication, sodomy, incest, assault with intent to ravish, larceny, murder, rape”; substituted the word “offenses” for the word “crimes”; and substituted the words “service of the sentence, including probation and parole time unless sooner pardoned” for the word “pardon.”

The 1986 amendment deleted former item (4), redesignated former item (5) as item (4), and made grammatical changes.

The 1994 amendment rewrote this section, primarily to provide that a person is disqualified from voting if he is serving a term of imprisonment resulting from a conviction of a crime.

The 1996 amendment substituted “meets the age qualification as provided in Section 4, Article II of the Constitution of this State” for “is at least eighteen years of age” in subsection (A)(1), and inserted “and” at the end of subsection (A)(2).

CROSS REFERENCES

Being deprived of the right of suffrage on conviction of sending or accepting a challenge to duel, see Section 16‑3‑410.

Constitutional provisions regarding disqualifications by reason of mental incompetence or conviction of crime, see SC Const, Art 2, Section 7.

Constitutional rule that General Assembly may require demonstration of literacy, see SC Const, Art 2, Section 6.

Free and open elections, see SC Const, Art 1, Section 5.

Receipt of public aid not disfranchising qualified citizens, see Section 7‑1‑30.

Registration of absentee voters, see Sections 7‑15‑110 et seq.

Residential qualifications of electors, see SC Const, Art 2, Section 4.

Federal Aspects

Guarantee of residency for spouses of military personnel for voting purposes, see 500 App. U.S.C.A. Section 595.

Suspension of land rights residency requirement for spouses of military personnel for voting purposes, see 50 App. U.S.C.A. Section 568.

LIBRARY REFERENCES

29 C.J.S., Elections Sections 14 et seq.

RESEARCH REFERENCES

ALR Library

10 ALR 6th 31 , Validity, Construction, and Application of State Criminal Disenfranchisement Provisions.

Encyclopedias

S.C. Jur. Bigamy Section 25, Sentence, Punishment and Disabilities of Convicted Defendant.

S.C. Jur. Elections Section 20, Residency and Domicile.

S.C. Jur. Elections Section 24, Mental Incompetency.

S.C. Jur. Elections Section 25, Confinement in Prison.

S.C. Jur. Elections Section 26, Conviction of a Felony or an Offense Against the Election Laws.

S.C. Jur. Elections Section 33, Sufficiency of Application.

S.C. Jur. Elections Section 93, Constitutional Provisions.

S.C. Jur. Probation, Parole, and Pardon Section 30, The Order of Pardon and Its Effect.

S.C. Jur. Public Officers and Public Employees Section 16, Citizenship.

S.C. Jur. Public Officers and Public Employees Section 17, Residency, Property Ownership, and Payment of Taxes.

S.C. Jur. Public Officers and Public Employees Section 19, Misconduct, Arrest, or Criminal Conviction.

LAW REVIEW AND JOURNAL COMMENTARIES

Constitutional Law—Elections—Durational Residency Requirement. 23 S.C. L. Rev. 320.

United States Supreme Court Annotations

Elections, Federal law preempts Arizona’s proof‑of‑citizenship requirement for mail‑in voter registration, see Arizona v. Inter Tribal Council of Arizona, Inc., 2013, 133 S.Ct. 2247, 186 L.Ed.2d 239. Elections 106; States 18.71

Validity, under Federal Constitution, of state residency requirements for voting in elections. 31 L Ed 2d 861.

Attorney General’s Opinions

An elector must reside within the limits of a municipality at least thirty days before being allowed to cast ballots in an election for a municipal official, and if the elector votes in an election he/she is not entitled to vote in, he/she could be charged with a misdemeanor, a felony, and/or perjury. S.C. Op.Atty.Gen. (September 29, 2014) 2014 WL 5073496.

An individual subject to electronic monitoring, who has completed their sentence and any applicable terms of probation or parole, is not disqualified from either registering to vote or voting pursuant to Section 7‑5‑120(B)(3). S.C. Op.Atty.Gen. (August 19, 2014) 2014 WL 4382450.

The particular candidate’s wife’s primary residence in a different Congressional District does not defeat that candidate’s eligibility to represent the Congressional District on the Board of Trustees of the Medical University of South Carolina for the county he claims as his residence. S.C. Op.Atty.Gen. (April 5, 2013) 2013 WL 1695516.

A court is likely to find McCormick County [School] Board of Trustees’ process of nominating a candidate is in accordance with the law. S.C. Op.Atty.Gen. (January 10, 2013) 2013 WL 275881.

Applicant for notary public commission must be registered elector in county in which he is resident. Applicant required to furnish his voter registration number; driver’s license number will not suffice. 1993 Op Atty Gen No. 93‑11.

Individual who pleaded guilty to “official misconduct in public office” would not be disqualified from registering to vote or prohibited from seeking public office. Whether individual is otherwise qualified for appointment to public office is decision to be made by appointing authority. 1993 Op Atty Gen No. 93‑21.

Individual who no longer resides in district for which he was elected would no longer be qualified to hold office but would continue to serve until his successor has been elected and qualified. 1993 Op Atty Gen No. 93‑39.

Person who is in jail or pre‑trial facility and who has not been convicted of any crime is not disenfranchised and should be allowed to register and vote. 1993 Op Atty Gen No. 93‑23.

A homeless individual may be registered to vote, using the homeless shelter or facility as his residence, if such is truly that person’s residence, as the place to which he returns after a temporary absence. To conclude otherwise would likely be violative of the Equal Protection Clause of the Fourteenth Amendment. While ballots must be challenged on an individual basis, challenging and invalidating a ballot due solely to one’s residency without some evidence of disqualification (i.e., that the individual does not maintain his residence at the address) would likely be constitutionally suspect. 1992 Op Atty Gen No 92‑64.

A person with a prior felony conviction would not be disqualified from being a registered elector or prohibited from seeking public office if he has served all of his sentence, including probation and parole. 1989 Op Atty Gen, No. 89‑30, p 85.

Individual who was convicted of obstruction of justice, a misdemeanor at common law, would not be disqualified as elector under Section 7‑5‑120(b), and assuming he otherwise meets qualifications of elector specified in that section and is registered to vote, he would be eligible to hold public office. 1985 Op Atty Gen, No. 85‑39, p 127.

A student may be registered to vote in the community where he attends college only if he established that he is a bona fide resident of that community. In establishing such residency, it must be demonstrated that the student intends to remain in the community permanently or indefinitely. 1984 Op Atty Gen, No. 84‑41, p 90.

South Carolina courts will probably follow majority rule that one convicted of felony under federal law, which offense would have been misdemeanor under state law, will be disenfranchised under Section 7‑5‑120(b). 1984 Op Atty Gen, No. 84‑94, p. 222.

One convicted of criminal conspiracy is not disqualified from voting. 1980 Op Atty Gen, No. 80‑22, p 48.

A conviction of criminal sexual conduct, without a statement of the facts upon which a determination can be made that the facts are sufficient to support a conviction for one of the statutory or common law crimes enumerated in Section 7‑5‑120, does not disqualify an elector from registering or voting. 1979 Op Atty Gen, No. 79‑12, p 22.

Persons having reached the age of eighteen (18) can lawfully serve as law enforcement officers in this state. 1978 Op Atty Gen, No. 78‑99, p. 128.

A person pleading nolo contendere to a disqualifying offense under Section 23‑62(5‑b) [1976 Code Section 7‑5‑120(5‑b)] would be disqualified from registering to vote. 1976‑77 Op Atty Gen, No. 77‑176, p 137.

A person who has been convicted of forging a drug prescription would also be deemed a forger under Section 23‑62 [1976 Code Section 7‑5‑120] and therefore disqualified from registering to vote. 1976‑77 Op Atty Gen, No. 77‑106, p 94.

A person who has been convicted of larceny is disqualified from being a municipal police chief. 1975‑76 Op Atty Gen, No. 4390, p 227.

A woman living with her husband would not be prohibited from establishing her own residency for the purpose of voting in South Carolina, even though her military husband did not declare the State of South Carolina as his residence. 1975‑76 Op Atty Gen, No. 4324, p 145.

And it is not stayed by appeal. 1964‑65 Op Atty Gen, No 1940, p 241.

Conviction in magistrate’s court of certain designated crimes will disqualify a person from becoming an elector. 1964‑65 Op Atty Gen, No. 1910, p 201.

Conviction of disqualifying offense in a foreign jurisdiction is sufficient to disqualify one from suffrage rights in South Carolina. 1964‑65 Op Atty Gen, No. 1912, p 202.

Disqualification arises at time of conviction. 1964‑65 Op Atty Gen, No. 1940, p 241.

One convicted of a disqualifying offense is not a qualified elector and is ineligible to hold public office. 1964‑65 Op Atty Gen, No. 1940, p 241.

SC Const, Art 2, Section 12, requires four months residence within corporate limits, and that provision is controlling. 1964‑65 Op Atty Gen, No. 1942, p 246.

Those persons desiring to vote in municipal elections must not only be registered electors, but must also demonstrate that they have been residents of the municipality for at least four months prior to the election. 1964‑65 Op Atty Gen, No. 1942, p 246.

Wife‑beating. One is guilty of wife‑beating if he is convicted of a substantive offense involving the situation whereby a man assaults and beats his wife. 1964‑65 Op Atty Gen, No. 1910, p 201.

Whether conviction had in court of magistrate or general sessions. Conviction for offenses named is a disqualifying factor, whether such conviction is had in the court of magistrate or general sessions. 1963‑64 Op Atty Gen, No. 1717, p 190.

NOTES OF DECISIONS

In general 1

Constitutional issues 2

1. In general

In an action against the managers of election for the refusal of the right to vote, the person so refused must allege the necessary qualifications which are conditions precedent to his right to vote. Wiley v Sinkler, 179 US 58, 21 S Ct 17, 45 L Ed 84 (1900). Logan v Stanley, 95 SC 22, 78 SE 524 (1913).

Former Section 7‑5‑120(5)(b), which disqualifies persons convicted of crimes from registering or voting, does not violate the Fourteenth Amendment to the United States Constitution since Section 2 of the Amendment immunizes any classification of disqualifying crimes, whether the classification is stated in terms of “felonies” generally, or of some felonies, or of certain specified crimes, from the equal protection constraints of Section 1 of the Amendment. However, the case would be remanded for consideration by the District Court of the plaintiff’s claim that the statute was racially discriminatory where the record failed to present any evidence on this issue. Allen v. Ellisor (C.A.4 (S.C.) 1981) 664 F.2d 391, vacated 102 S.Ct. 80, 454 U.S. 807, 70 L.Ed.2d 76.

Cited in Ferrara v. Ibach (D.C.S.C. 1968) 285 F.Supp. 1017.

Registration lists, compiled by the State Election Commission, which are based upon the general qualifications for electors as set forth in SC Const, Art 2, Section 4, and this section [Code 1962 Section 23‑62], are not necessarily conclusive of the additional qualifications required for voting in incorporation elections under SC Const, Art 8, Section 2. Brisben v. Thornton (S.C. 1972) 258 S.C. 524, 189 S.E.2d 827. Municipal Corporations 12(8)

Cited in Lassiter v. Northampton County Bd. of Elections, 1959, 79 S.Ct. 985, 360 U.S. 45, 3 L.Ed.2d 1072.

2. Constitutional issues

The National Voter Registration Act (NVRA) mandate that States “accept and use” a uniform federal form to register voters for federal elections pre‑empted Arizona law’s requirement that voters present proof of citizenship when they registered to vote, as applied to federal form applicants; government conceded that a State could request that the Election Assistance Commission (EAC), as the federal agency that prescribed the contents of the federal form, alter the form to include information the State deemed necessary to determine eligibility, and could challenge the EAC’s rejection of that request in a suit under the Administrative Procedure Act (APA), and therefore no constitutional doubt was raised by giving the “accept and use” provision of the NVRA its fairest reading. Arizona v. Inter Tribal Council of Arizona, Inc., 2013, 133 S.Ct. 2247, 186 L.Ed.2d 239. Election Law 119; States 18.71

**SECTION 7‑5‑125.** Written notification of registration.

 (A) Any person who applies for registration to vote and is found to be qualified by the county board of voter registration and elections to whom application is made must be issued a written notification of registration. This notification must be on a form prescribed and provided by the State Election Commission.

 (B) If an elector loses or defaces his registration notification, he may obtain a duplicate notification from his county board of voter registration and elections upon request in person, or by telephone or mail.

HISTORY: 1988 Act No. 507, Section 1, eff May 9, 1988; 2011 Act No. 27, Section 2, eff May 18, 2011.

Code Commissioner’s Note

Pursuant to the directive in 2014 Act No. 196, Section 8, at the direction of the Code Commissioner, references in this section to county election commissions or commissioners or county boards of voter registration were changed to the “Board of Voter Registration and Elections” and board members as appropriate.

Editor’s Note

2011 Act No. 27, Sections 7 and 8, provide as follows:

“SECTION 7. The State Elections Commission must establish an aggressive voter education program concerning the provisions contained in this legislation. The State Elections Commission must educate the public as follows:

“(1) Post information concerning changes contained in this legislation in a conspicuous location at each county board of registration and elections, each satellite office, the State Elections Commission office, and their respective websites.

“(2) Train poll managers and poll workers at their mandatory training sessions to answer questions by electors concerning the changes in this legislation.

“(3) Require documentation describing the changes in this legislation to be disseminated by poll managers and poll workers at every election held following preclearance by the United States Department of Justice or approval by a declaratory judgment issued by the United States District Court for the District of Columbia, whichever occurs first.

“(4) Coordinate with each county board of registration and elections so that at least two seminars are conducted in each county prior to December 15, 2011.

“(5) Coordinate with local and service organizations to provide for additional informational seminars at a local or statewide level.

“(6) Place an advertisement describing the changes in this legislation in South Carolina newspapers of general circulation by no later than December 15, 2011.

“(7) Coordinate with local media outlets to disseminate information concerning the changes in this legislation.

“(8) Notify each registered elector who does not have a South Carolina issued driver’s license or identification card a notice of the provisions of this act by no later than December 1, 2011. This notice must include the requirements to vote absentee, early, or on election day and a description of voting by provisional ballot. It also must state the availability of a free South Carolina identification card pursuant to Section 56‑1‑3350.

“In addition to the items above, the State Elections Commission may implement additional educational programs in its discretion.

“SECTION 8. The State Election Commission is directed to create a list containing all registered voters of South Carolina who are otherwise qualified to vote but do not have a South Carolina driver’s license or other form of identification containing a photograph issued by the Department of Motor Vehicles as of December 1, 2011. The list must be made available to any registered voter upon request. The Department of Motor Vehicles must provide the list of persons with a South Carolina driver’s license or other form of identification containing a photograph issued by the Department of Motor Vehicles at no cost to the commission. The commission may charge a reasonable fee for the provision of the list in order to recover associated costs of producing the list.”

Effect of Amendment

The 2011 amendment designated the existing text as subsection (A), and added subsection (B).

CROSS REFERENCES

Proof of the right to vote, see Section 7‑13‑710.

**SECTION 7‑5‑130.** Time and place where books shall be kept open for registration.

 The books of registration shall be open at each county courthouse, or at such other place as may be provided by the governing body of the county, during the same hours as other county offices are normally open, except as provided for in Section 7‑5‑150.

HISTORY: 1962 Code Section 23‑63; 1952 Code Section 23‑63; 1950 (46) 2059; 1967 (55) 634.

LIBRARY REFERENCES

29 C.J.S., Elections Section 39.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Elections Section 28, County Seat.

Attorney General’s Opinions

Discussion of (A)(2)(e) of this section, relating to completion of a recognized forensic science degree or certification program. S.C. Op.Atty.Gen. (May 3, 2016) 2016 WL 2764105.

No provision for watchers. No provision is contained in the South Carolina Election Law for watchers at places of registration of electors. 1964‑65 Op Atty Gen, No 1812, p 60.

NOTES OF DECISIONS

In general 1

1. In general

Under former statute if the voter was given a reasonable opportunity to register, he was not in a position to complain that any of his constitutional or statutory rights had been violated. Whitmire v. Cass (S.C. 1948) 213 S.C. 230, 49 S.E.2d 1. Election Law 118

The purpose of this section is that all who have an interest in the vital affairs of the city should be allowed an opportunity to vote, so where the books of registration are opened before the time herein set out, the election will not be declared invalid, even where it is shown that a sufficient number of persons registered during that period to change the result of the election. Phillips v. City of Rock Hill (S.C. 1938) 188 S.C. 140, 198 S.E. 604, 119 A.L.R. 656.

Provisions directory. A failure to comply with the provisions of the statute requiring the opening of books of registration twenty days before an election and the closing ten days prior thereto does not invalidate an election, for the provisions of this statute are directory as distinguished from mandatory. Phillips v. City of Rock Hill (S.C. 1938) 188 S.C. 140, 198 S.E. 604, 119 A.L.R. 656.

Nor where the books were open for twenty‑eight days instead of twenty was such an irregularity sufficient to affect the validity of the election in the absence of a showing that such irregularity affected the result of the election. Clinkscales v. Fant (S.C. 1921) 116 S.C. 206, 107 S.E. 515.

Irregularities not affecting result of election are immaterial. In a case where the registration books were kept open twenty‑five days prior to the special election instead of the prescribed twenty, it was held that such irregularity, in the absence of a showing that the irregularity affected the result, was immaterial. Bethea v. Town of Dillon (S.C. 1912) 91 S.C. 413, 74 S.E. 983.

**SECTION 7‑5‑140.** Additional days and hours for registration; notice of time and place.

 Boards of voter registration and elections shall remain open as provided by law and, in addition thereto, shall remain open and available for registration on any additional days, during such hours and at such various places throughout the county as the boards may determine. Such boards also shall remain open and available for absentee registration and absentee voting responsibilities during such additional hours as the boards may deem necessary. Notice of the time and place shall be given by prior publication in a newspaper of general circulation in the county.

HISTORY: 1962 Code Section 23‑65.1; 1957 (50) 671; 1967 (55) 634; 1982 Act No. 280, Section 3, eff February 24, 1982.

Code Commissioner’s Note

Pursuant to the directive in 2014 Act No. 196, Section 8, at the direction of the Code Commissioner, references in this section to county election commissions or commissioners or county boards of voter registration were changed to the “Board of Voter Registration and Elections” and board members as appropriate.

Effect of Amendment

The 1982 amendment added the second sentence “Such boards also shall remain open and available for absentee registration and absentee voting responsibilities during such additional hours as the boards may deem necessary.”

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Elections Section 29, Alternative Places and Procedures to Register.

Attorney General’s Opinions

Absent amendment of notice statutes requiring notice in a newspaper of general circulation by the General Assembly, the term newspaper of general circulation cannot be extended to include online newspapers. S.C. Op.Atty.Gen. (October 21, 2015) 2015 WL 6745997.

Notification by radio of additional registration times and places would be invalid notification. No prohibition to having radio announcements or some other method of notification to supplement required newspaper notice. 1984 Op Atty Gen, No. 84‑32, p. 73.

Registration on house to house canvass basis not authorized. Boards of registration are not authorized to solicit and register persons on a house to house canvass basis. 1968‑69 Op Atty Gen, No. 2692, p 128.

Board may remain open on legal holiday. A county board of registration could have, if it chose and properly announced the same, remained open on Friday, May 10, and Saturday, May 11, 1968, to accept applications for registration and to issue registration certificates, even though May 10 was a legal holiday. 1967‑68 Op Atty Gen, No. 2446, p 104.

Payment to members of boards. Payment made by the State to the members of the boards of registration is in full for all days on which the board is required to open or which, in its discretion, under the provisions of this section [Code 1962 Section 23‑65.1], the board may determine to additionally open its offices. 1964‑65 Op Atty Gen, No. 1877, p 143.

NOTES OF DECISIONS

In general 1

1. In general

Special registration supplemental to regular registration. The special registration for special elections was intended to supplement the regular registration in order that those who are qualified, but not duly registered since the last general election, may not be deprived of the right to vote at special elections. Logan v. Stanley (S.C. 1913) 95 S.C. 22, 78 S.E. 524.

**SECTION 7‑5‑150.** Closing registration books; registration of persons coming of age while books closed.

 The registration books shall be closed thirty days before each election, but only as to that election or any second race or runoff resulting from that election, and shall remain closed until the election has taken place, anything in this article to the contrary notwithstanding; provided, that the registration books shall be closed thirty days before the June primary and shall remain closed until after the second primary and shall likewise be closed thirty days before the November general election. They shall thereafter be opened from time to time in accordance with the provisions of this article. Any person eligible to register who has been discharged or separated from his service in the Armed Forces of the United States, and returned home too late to register at the time when registration is required, is entitled to register for the purpose of voting in the next ensuing election after the discharge or separation from service, up to 5:00 p.m. on the day of the election. This application for registration must be made at the office of the board of voter registration and elections in the county in which the person wishes to register, and if qualified, the person must be issued a registration notification stating the precinct in which he is entitled to vote and a certification to the managers of the precinct that he is entitled to vote and should be placed on the registration rolls of the precinct. Persons who become of age during this period of thirty days shall be entitled to register before the closing of the books if otherwise qualified.

HISTORY: 1962 Code Section 23‑66; 1952 Code Section 23‑66; 1950 (46) 2059; 1957 (50) 671; 1958 (50) 1548; 1996 Act No. 222, Section 1, eff February 12, 1996.

Code Commissioner’s Note

Pursuant to the directive in 2014 Act No. 196, Section 8, at the direction of the Code Commissioner, references in this section to county election commissions or commissioners or county boards of voter registration were changed to the “Board of Voter Registration and Elections” and board members as appropriate.

Effect of Amendment

The 1996 amendment revised this section to provide for late registration of eligible persons discharged or separated from service in the Armed Forces.

CROSS REFERENCES

Procedures for registration when qualification is completed after closing books, see Section 7‑5‑180.

Registration of electors by mail, subject to the provision of this section, see Section 7‑5‑155.

RESEARCH REFERENCES

ALR Library

56 ALR 6th 523 , Validity of Statute Limiting Time Period for Voter Registration.

Encyclopedias

S.C. Jur. Elections Section 30, Registration 30 Days Prior to Election.

S.C. Jur. Elections Section 31, Exceptions to the 30 Day Registration Requirement.

Attorney General’s Opinions

Where an election has been overturned, the deadline for voter registration relates to the new election event, not the overturned election. S.C. Op.Atty.Gen. (January 31, 2017) 2017 WL 1017485.

Person who is not qualified to vote in first election for failure to register 30 days prior to election will not be qualified to vote in subsequent run‑off. 1984 Op Atty Gen, No. 84‑5, p. 23.

Notification by radio of additional registration times and places would be invalid notification. No prohibition to having radio announcements or some other method of notification to supplement required newspaper notice. 1984 Op Atty Gen, No. 84‑32, p. 73.

Municipal party primary winner entitled to be candidate in general election. Municipal party primary winner in race for city council was entitled to be his party’s candidate in the general election although he had not been registered 30 days in his precinct prior to the primary but will have been registered more than 30 days at the time of the general election. 1971‑72 Op Atty Gen, No. 3289, p 96.

When qualification of candidate determined. Qualification of candidate is determined as of time of election and not at time of filing of his nomination petition. 1967‑68 Op Atty Gen, No. 2559, p 257.

Voting in second primary requires certificate valid for first primary. If an individual does not have a voting certificate valid for the first primary, he is ineligible to vote in the second primary. 1967‑68 Op Atty Gen, No. 2400, p 40.

Registration books are not physically closed prior to an election except during June primary and November general election. 1964‑65 Op Atty Gen, No. 1797 p 39.

Period within which persons coming of age or completing qualification may register. Persons who will come of age or complete qualification during the 30‑day period of the closing of the books before an election may apply for registration during the 60‑day period preceding such closing. 1964‑65 Op Atty Gen, No. 1935, p 235.

Section controls Code 1962 Section 23‑63 on points of conflict. This section [Code 1962 Section 23‑66], having been amended at a later date than code 1962 Section 23‑63, controls on those points where they conflict. 1963‑64 Op Atty Gen, No. 1621, p 41.

Registration certificate must be dated at least thirty days before election. To be eligible to vote in any election, the voter must possess a registration certificate dated at least 30 days prior to the day of election. 1962‑63 Op Atty Gen, No. 1566, p 136.

NOTES OF DECISIONS

In general 1

1. In general

Statutory requirement that, as qualification of voting in any election, one must be duly registered on books of registration of state at least 30 days prior to election is valid and constitutional; there is nothing racially discriminatory in statute since person has no federal constitutional right to walk up to voting place on election day and demand ballot; states have valid and sufficient interest in providing for some period of time prior to election in order to prepare adequate voter records and protect electoral processes from possible frauds. Key v. Board of Voter Registration of Charleston County (C.A.4 (S.C.) 1980) 622 F.2d 88, certiorari denied 101 S.Ct. 222, 449 U.S. 877, 66 L.Ed.2d 99, rehearing denied 101 S.Ct. 547, 449 U.S. 1005, 66 L.Ed.2d 302.

**SECTION 7‑5‑155.** Registration of electors by mail.

 (a) Notwithstanding any other provision of law, the following procedures may be used in the registration of electors in addition to the procedure otherwise provided by law.

 (1) Subject to the provision of Section 7‑5‑150, any qualified citizen may register to vote by mailing or having delivered a completed state registration by mail application form or a completed national registration by mail application form prescribed by the Federal Election Commission not later than thirty days before any election to his county board of voter registration and elections. The postmark date of a mailed application is considered the date of mailing. If the postmark date is missing or illegible, the county board of voter registration and elections must accept the application if it is received by mail no later than five days after the close of the registration books before any election.

 (2) If the county board of voter registration and elections determines that the applicant is qualified and his application is legible and complete, the board shall mail the voter written notification of approval on a form to be prescribed and provided by the State Election Commission pursuant to Section 7‑5‑180. When the county board of voter registration and elections mails the written notification of approval, it must do so without requiring the elector to sign anything in the presence of a member of the board, a deputy member, or a registration clerk, and the attestation of the elector’s signature is not required so long as the conditions set forth above are met.

 (3) Any application must be rejected for any of the following reasons:

 (i) any portion of the application is not complete;

 (ii) any portion of the application is illegible in the opinion of a member and the clerk of the board;

 (iii) the board is unable to determine, from the address stated on the application, the precinct in which the voter should be assigned or the election districts in which he is entitled to vote.

 (4) Any person whose application is rejected must be notified of the rejection together with the reason for rejection. The applicant must further be informed that he still has a right to register by appearing in person before the county board of voter registration and elections or by submitting the information by mail necessary to correct his rejected application. The form for notifying applicants of rejection must be prescribed and provided by the State Election Commission pursuant to Section 7‑5‑180.

 (b) Every application for registration by mail shall contain spaces for the home and work telephone numbers of the applicant and the applicant shall enter the numbers on the application where applicable.

 (c) The State Election Commission shall furnish a sufficient number of application forms to the county boards of voter registration and elections and voter registration agencies specified in Section 7‑5‑310(B) so that distribution of the application forms may be made to various locations throughout the counties and mailed to persons requesting them.

 County boards of voter registration and elections shall distribute application forms to various locations in their respective counties, including city halls and public libraries, where they must be readily available to the public.

 (d) The original applications must remain on file in the office of the county board of voter registration and elections.

 (e) The State Election Commission may promulgate regulations to implement the provisions of this section.

HISTORY: 1986 Act No. 535, eff June 23, 1986; 1996 Act No. 466, Sections 4, 5, eff August 21, 1996.

Code Commissioner’s Note

Pursuant to the directive in 2014 Act No. 196, Section 8, at the direction of the Code Commissioner, references in this section to county election commissions or commissioners or county boards of voter registration were changed to the “Board of Voter Registration and Elections” and board members as appropriate.

Effect of Amendment

The 1996 amendment revised subsection (a)(1), and subsection (c).

CROSS REFERENCES

Duties of State Election Commission respecting removal of elector from official list, see Section 7‑5‑340.

LIBRARY REFERENCES

29 C.J.S., Elections Sections 39, 46.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Elections Section 29, Alternative Places and Procedures to Register.

**SECTION 7‑5‑160.** Voter registration; permanent registration.

 Effective July 1, 1976, any person who is registered to vote according to law shall remain permanently registered and entitled to all rights and privileges of such registration unless his name is removed from the registration list for cause. The provisions of this section shall not be construed to modify or repeal any of the provisions of this title or acts of the General Assembly which establish registration procedures and prescribe the causes for termination of registration or purging of registration rolls except those which require re‑registration at ten‑year intervals.

HISTORY: 1962 Code Section 23‑67; 1952 Code Section 23‑67; 1950 (46) 2059; 1957 (50) 671; 1976 Act No. 518.

Effect of Amendment

The 1976 amendment substantially revised this section.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Elections Section 35, When Valid.

United States Supreme Court Annotations

Elections, temporary restraining order, enforcement of voter registration verification requirements, see Brunner v. Ohio Republican Party, 2008, 129 S.Ct. 5, 555 U.S. 5, 172 L.Ed.2d 4.

Attorney General’s Opinions

Voting certificates issued on basis of surrender of prior registration certificates are not subject to a thirty‑day waiting period required by the Constitution. 1967‑68 Op Atty Gen, No. 2449, p 109.

Notation on certificate of different expiration date. A certificate issued during the preceding registration period was valid under current law until April 30, 1968, irrespective of a notation of a different expiration date thereon. 1966‑67 Op Atty Gen, No. 2353, p 191.

NOTES OF DECISIONS

In general 1

1. In general

Under former statute elector had the right to register at any time during the tenth year. Veronee v. Charleston Consol. Ry. & Lighting Co. (S.C. 1929) 152 S.C. 178, 149 S.E. 753.

**SECTION 7‑5‑170.** Necessity for written application for registration; information to be contain on form; oaths; decisions on applications.

 (1) Written application required.—A person may not be registered to vote except upon written application or electronic application pursuant to Section 7‑5‑185, which shall become a part of the permanent records of the board to which it is presented and which must be open to public inspection. However, the social security number contained in the application must not be open to public inspection.

 (2) Form of application. — The application must be on a form prescribed and provided by the executive director and shall contain the following information: name, sex, race, social security number, date of birth, residence address, mailing address, telephone number of the applicant, and location of prior voter registration. The applicant must affirm that he is not under a court order declaring him mentally incompetent, confined in any public prison, has never been convicted of a felony or offense against the election laws, or if previously convicted that he has served his entire sentence, including probation and parole time, or has received a pardon for the conviction. Additionally, the applicant must take the following oath: “I, do solemnly swear (or affirm) that I am a citizen of the United States and that on the date of the next ensuing election, I will have attained the age of eighteen years and am a resident of South Carolina, this county, and of my precinct. I further swear (or affirm) that the present residence address listed herein is my sole legal place of residence and that I claim no other place as my legal residence.” Any applicant convicted of fraudulently applying for registration is guilty of perjury and is subject to the penalty for that offense.

 (3) Administration of oaths. — Any member of the county board of voter registration and elections, deputy registrar, or any registration clerk must be qualified to administer oaths in connection with the application.

 (4) Decisions on applications. — Any member of the county board of voter registration and elections, deputy registrar, or registration clerk may pass on the qualifications of the prospective voter. In case of a question of an applicant being refused registration, at least one member of the board shall pass on the qualifications of the voter. A concise statement of the reasons for the refusal must be written on the application.

HISTORY: 1962 Code Section 23‑68; 1952 Code Section 23‑68; 1950 (46) 2059; 1951 (47) 78; 1957 (50) 671; 1965 (54) 283; 1967 (55) 657; 1968 (55) 2316; 1974 (58) 2185; 1984 Act No. 304, eff March 22, 1984; 1984 Act No. 510, Section 3, eff June 28, 1984; 1986 Act No. 345, Section 2, eff March 7, 1986; 1993 Act No. 90, Section 1, eff January 1, 1994; 2004 Act No. 239, Section 1, eff May 24, 2004; 2012 Act No. 265, Section 1, eff upon preclearance approval or declaratory judgment.

Code Commissioner’s Note

Pursuant to the directive in 2014 Act No. 196, Section 8, at the direction of the Code Commissioner, references in this section to county election commissions or commissioners or county boards of voter registration were changed to the “Board of Voter Registration and Elections” and board members as appropriate.

Editor’s Note

2012 Act No. 265, Section 9, provides as follows:

“This act takes effect upon preclearance approval by the United States Department of Justice or approval by a declaratory judgment issued by the United States District Court for the District of Columbia, whichever occurs first.”

Preclearance approval for 2012 Act No. 265 was received on October 1, 2012.

Effect of Amendment

The first 1984 amendment revised item 5 in subsection (2) pertaining to conviction for certain crimes.

The second 1984 amendment changed subsection (1) by substituting “person may be registered to vote” for “registration certificate shall be issued,” and “must” for “shall.”

The 1986 amendment made grammatical changes and, in the form set forth in subsection (2), added “, a citizen of this State and the United States,” deleted former item 4, redesignated former items 5‑10 as 4‑9, and added item 10 regarding the applicant’s telephone number.

The 1993 amendment added that part of subsection (2) which follows “shall contain the following information:” and deleted a form for application which appeared following subsection (2).

The 2004 amendment, in subsection (1), added the second sentence relating to the social security number.

The 2012 amendment, in item (1), substituted “A person may not” for “No person may”; inserted “or electronic application pursuant to Section 7‑5‑185,”; and deleted “as required by this section” after “contained in the application”.

CROSS REFERENCES

Punishment for false swearing in applying for registration, see Section 7‑25‑10.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Elections Section 32, Form.

Attorney General’s Opinions

Voter registration information should be furnished to any qualified elector requesting it without omission or redaction, regardless of succeeding legislation or judicial opinion. S.C. Op.Atty.Gen. (August 29, 2016) 2016 WL 4698866.

A person convicted of a felony or offense against the election laws must list that crime on the voter registration application even if he had been pardoned for this crime. 1988 Op Atty Gen, No. 88‑8, p 38.

Where application for registration and registration certificate must be signed. According to the election law an application for registration must be signed in the presence of a member of the board or the clerk of the registration board and the registration certificate must be signed in the presence of a member of the board or clerk. 1968‑69 Op Atty Gen, No. 2653, p 68.

The payment of taxes and the certification of residence for the purpose of motor vehicle registration are factors to take into consideration in determining the place of residence, but not conclusive factors. 1963‑64 Op Atty Gen, No. 1729, p 216.

Registration of student. A student may properly be asked under subdivision (4) if he is registered to vote in another county. Where do his parents live? What is his place of residence as shown upon the college records? Military records? Insurance records? Driver’s license? Other documents? 1963‑64 Op Atty Gen, No. 1729, p 216.

A student should particularly be asked if he intends to make the college area his permanent place of residence. Has he abandoned any intention of returning to his parental home? 1963‑64 Op Atty Gen, No. 1729, p 216.

**SECTION 7‑5‑175.** Providing voter registration application forms to high school administration.

 The board of voter registration and elections in each county, or the entity charged by law with registering an elector, shall provide voter registration application forms to the administration of any high school in this State, upon the administration’s request.

HISTORY: 2004 Act No. 253, Section 1, eff June 15, 2004.

Code Commissioner’s Note

Pursuant to the directive in 2014 Act No. 196, Section 8, at the direction of the Code Commissioner, references in this section to county election commissions or commissioners or county boards of voter registration were changed to the “Board of Voter Registration and Elections” and board members as appropriate.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Elections Section 32, Form.

**SECTION 7‑5‑180.** Procedure for registration when qualification shall be completed after closing books.

 Except as otherwise provided by law, a person who has not attained the age of eighteen years before the closing of the books of registration preceding any election, including presidential primary elections, but attains that age before the next ensuing election appears before the county board of voter registration and elections and makes application for registration, under oath as to the facts above stated entitling a person to registration, the board shall register the applicant, if he is otherwise qualified. Any person not laboring under the disabilities named in the Constitution and in Section 7‑5‑120 and whose qualification as an elector is completed after the closing of the registration books, but before the next ensuing election, has the right to apply for and secure registration at any time within one hundred twenty days immediately preceding the closing of the books for the election or for the primary election preceding the election. Written notification of approval or rejection must be issued personally or mailed by the board to each applicant on a form to be prescribed and provided by the State Election Commission. The decision of the county board of voter registration and elections may be appealed as provided by Section 7‑5‑230.

HISTORY: 1962 Code Section 23‑69; 1952 Code Section 23‑69; 1950 (46) 2059; 1967 (55) 634; 1968 (55) 2316; 1976 Act No. 695 Section 1; 1984 Act No. 510, Section 4, eff June 28, 1984; 1988 Act No. 589, eff June 2, 1988; 1996, Act No. 408, Section 2, eff on the ratification of the amendment to Section 4, Article II of the Constitution of this State to change the age qualification to vote (ratified March 25, 1997).

Code Commissioner’s Note

Pursuant to the directive in 2014 Act No. 196, Section 8, at the direction of the Code Commissioner, references in this section to county election commissions or commissioners or county boards of voter registration were changed to the “Board of Voter Registration and Elections” and board members as appropriate.

Effect of Amendment

The 1976 amendment substituted “eighteen” for “twenty‑one” in the first sentence.

The 1984 amendment substantially reworded this section.

The 1988 amendment substituted “one hundred twenty” for “sixty” in the second sentence and made grammatical changes.

The 1996 amendment substituted “Except as otherwise provided by law, a” for “In case any” in the first sentence.

CROSS REFERENCES

Applicability of this section to an elector’s proof of his right to vote, see Section 7‑13‑710.

Prescription by the State Election Commission of forms relative to registration of electors by mail, see Section 7‑5‑155.

Registration of persons coming of age while books closed, see Section 7‑5‑150.

Attorney General’s Opinions

Municipal party primary winner entitled to be candidate in general election. Municipal party primary winner in race for city council was entitled to be his party’s candidate in the general election although he had not been registered 30 days in his precinct prior to the primary, but will have been registered more than 30 days at the time of the general election. 1971‑72 Op Atty Gen, No. 3289, p 96.

**SECTION 7‑5‑185.** Electronic applications for voter registration.

 (A) A person who is qualified to register to vote and who has a valid South Carolina driver’s license or state identification card issued by the Department of Motor Vehicles may submit an application for voter registration electronically on the Internet website of the State Election Commission.

 (B)(1) An application submitted pursuant to this section is effective upon receipt of the application by the State Election Commission if the application is received thirty days before an election to be held in the precinct of the person submitting the application.

 (2) The applicant shall attest to the truth of the information provided in the application.

 (3) For voter registration purposes, the applicant shall assent to the use of his signature from his driver’s license or state identification card issued by the Department of Motor Vehicles.

 (4) For each electronic application, the State Election Commission shall obtain an electronic copy of the applicant’s signature from his driver’s license or state identification card issued by the Department of Motor Vehicles directly from the Department of Motor Vehicles with no fee.

 (5) An application submitted pursuant to this section must contain the applicant’s name, sex, race, social security number, date of birth, residence address, mailing address, telephone number of the applicant, and location of prior voter registration. The applicant must affirm that he is not under a court order declaring him mentally incompetent, confined in a public prison, has never been convicted of a felony or offense against the election laws, or if previously convicted, that he has served his entire sentence, including probation and parole time, or has received a pardon for the conviction. Additionally, the applicant must attest to the following: “I do solemnly swear (or affirm) that I am a citizen of the United States and that on the date of the next ensuing election, I will have attained the age of eighteen years and am a resident of South Carolina, this county, and of my precinct. I further swear (or affirm) that the present residence address listed herein is my sole legal place of residence and that I claim no other place as my legal residence.” An applicant convicted of fraudulently applying for registration is guilty of perjury and is subject to the penalty for that offense.

 (C) Upon submission of an application pursuant to this section, the electronic voter registration system shall provide immediate verification that the:

 (1) applicant has a South Carolina driver’s license or state identification card issued by the Department of Motor Vehicles and that the number for that driver’s license or identification card provided by the applicant matches the number for that person’s driver’s license or state identification card that is on file with the Department of Motor Vehicles;

 (2) date of birth provided by the applicant matches the date of birth for that person, which is on file with the Department of Motor Vehicles;

 (3) name provided by the applicant matches the name for the person which is on file with the Department of Motor Vehicles; and

 (4) State Election Commission employs security measures to ensure the accuracy and integrity of voter registration applications submitted electronically pursuant to this section.

 (D) Should there be a failure to match any of the information required in this section with the Department of Motor Vehicles, the State Election Commission immediately shall notify the applicant of the failure to match information and inform the applicant that his application for registration was not accepted.

 (E) The State Election Commission may promulgate regulations necessary to effectuate the provisions of this section.

HISTORY: 2012 Act No. 265, Section 2, eff upon preclearance approval or declaratory judgment.

Editor’s Note

2012 Act No. 265, Section 9, provides as follows:

“This act takes effect upon preclearance approval by the United States Department of Justice or approval by a declaratory judgment issued by the United States District Court for the District of Columbia, whichever occurs first.”

Preclearance approval for 2012 Act No. 265 was received on October 1, 2012.

CROSS REFERENCES

Necessity for written application for registration, information to be contain on form, oaths, decisions on applications, see Section 7‑5‑170.

**SECTION 7‑5‑186.** Statewide voter registration database.

 (A)(1) The State Election Commission shall establish and maintain a statewide voter registration database that must be administered by the commission and made continuously available to each county board of voter registration and elections and to other agencies as authorized by law.

 (2)(a) State agencies, including, but not limited to, the Department of Health and Environmental Control, Office of Vital Statistics, Department of Motor Vehicles, Department of Employment and Workforce, and the Department of Corrections, shall provide information and data to the State Election Commission that the commission considers necessary in order to maintain the statewide voter registration database established pursuant to this section, except where prohibited by federal law or regulation. The State Election Commission shall ensure that any information or data provided to the State Election Commission, which is confidential in the possession of the entity providing the data, remains confidential while in the possession of the State Election Commission.

 (b) Information provided under this division for maintenance of the statewide voter registration database must not be used to update the name or address of a registered elector. The name or address of a registered elector only must be updated as a result of the elector’s actions in filing a notice of change of name, change of address, or both.

 (c) A county board of voter registration and elections shall contact a registered elector by mail at the address on file with the board to verify the accuracy of the information in the statewide voter registration database regarding that elector if information provided under subsection (A)(2)(a) of this section identifies a discrepancy between the information regarding that elector that is maintained in the statewide voter registration database and maintained by a state agency.

 (3) The State Election Commission may enter into agreements to share information or data with other states or groups of states, as the commission considers necessary, in order to maintain the statewide voter registration database established pursuant to this section. Except as otherwise provided in this subsection, the commission shall ensure that any information or data provided to the commission that is confidential in the possession of the state providing the data remains confidential while in the possession of the commission. The commission may provide such otherwise confidential information or data to persons or organizations that are engaging in legitimate governmental purposes related to the maintenance of the statewide voter registration database.

HISTORY: 2012 Act No. 265, Section 3, eff upon preclearance approval or declaratory judgment.

Code Commissioner’s Note

Pursuant to the directive in 2014 Act No. 196, Section 8, at the direction of the Code Commissioner, references in this section to county election commissions or commissioners or county boards of voter registration were changed to the “Board of Voter Registration and Elections” and board members as appropriate.

Editor’s Note

2012 Act No. 265, Section 9, provides as follows:

“This act takes effect upon preclearance approval by the United States Department of Justice or approval by a declaratory judgment issued by the United States District Court for the District of Columbia, whichever occurs first.”

Preclearance approval for 2012 Act No. 265 was received on October 1, 2012.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Elections Section 32, Form.

**SECTION 7‑5‑190.** Repealed by 1984 Act No. 510, Section 19, eff June 28, 1984.

Editor’s Note

Former Section 7‑5‑190 was entitled “Issuance and delivery of registration certificates by boards” and was derived from 1962 Code Section 23‑70.1; 1957 (50) 671.

**SECTION 7‑5‑200.** Repealed by 1984 Act No. 510, Section 19, eff June 28, 1984.

Editor’s Note

Former Section 7‑5‑200 was entitled “Certificates shall be furnished to registered voters; execution and form of certificates” and was derived from 1962 Code Section 23‑71; 1952 Code Section 2371; 1950 (46) 2059; 1957 (50) 671; 1967 (55) 657; 1968 (55) 2316.

**SECTION 7‑5‑210.** Physically disabled persons may execute forms by mark.

 In cases of inability to write on account of physical disability only, any prospective registrant to vote may sign the application and oath by mark in the presence of a clerk or a member of the county board of voter registration and elections.

HISTORY: 1962 Code Section 23‑72.1; 1958 (50) 1591; 1984 Act No. 510, Section 5, eff June 28, 1984.

Code Commissioner’s Note

Pursuant to the directive in 2014 Act No. 196, Section 8, at the direction of the Code Commissioner, references in this section to county election commissions or commissioners or county boards of voter registration were changed to the “Board of Voter Registration and Elections” and board members as appropriate.

Effect of Amendment

The 1984 amendment deleted “and registration certificate” after “oath” in the first sentence, deleted the second sentence, and made certain grammatical changes.

CROSS REFERENCES

Barrier‑free polling places for physically handicapped electors, see Section 7‑7‑990.

**SECTION 7‑5‑220.** Certificates shall be invalid at election within thirty days of issuance.

 Except as provided in Section 7‑5‑150, registration made thirty days or less before any election is not valid for that election or any second race or runoff resulting from that election but such registration shall be valid in any other election.

HISTORY: 1962 Code Section 23‑72.2; 1958 (50) 1548; 1984 Act No. 510, Section 6, eff June 28, 1984; 1996 Act No. 222, Section 3, eff February 12, 1996.

Effect of Amendment

The 1984 amendment substantially reworded this section.

The 1996 amendment revised this section to refer to Section 7‑5‑150, respecting the closing of registration books.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Elections Section 29, Alternative Places and Procedures to Register.

S.C. Jur. Elections Section 30, Registration 30 Days Prior to Election.

S.C. Jur. Elections Section 35, When Valid.

Attorney General’s Opinions

Person who is not qualified to vote in first election for failure to register 30 days prior to election will not be qualified to vote in subsequent run‑off. 1984 Op Atty Gen, No. 84‑5, p. 23.

Municipal party primary winner entitled to be candidate in general election. Municipal party primary winner in race for city council was entitled to be his party’s candidate in the general election although he had not been registered 30 days in his precinct prior to the primary, but will have been registered more than 30 days at the time of the general election. 1971‑72 Op Atty Gen, No. 3289, p 96.

Effect of registering thirty days or less from election. This section [Code 1962 Section 23‑72.2] prohibits voter obtaining registration thirty days or less from an election from voting in that election. 1969‑70 Op Atty Gen, No. 2821, p 33.

Phrasing of notation. The notation required to be issued upon certificates by the provisions of this section [Code 1962 Section 23‑72.2] may appropriately be phrased: “Not valid until after the expiration of thirty days after the date of the issuance hereof.” 1963‑64 Op Atty Gen, No. 1632, p 61.

**SECTION 7‑5‑230.** Legal qualifications; challenges; proof of residency or domicile; appeals.

 (A) The county boards of voter registration and elections to be appointed under Section 7‑5‑10 shall be the judges of the legal qualifications of all applicants for registration. The board is empowered to require proof of these qualifications as it considers necessary.

 Once a person is registered, challenges of the qualifications of any elector, except for challenges issued at the polls pursuant to Sections 7‑13‑810, 7‑13‑820, and 7‑15‑420 must be made in writing to the county board of voter registration and elections in the county of registration. The board must, within ten days following the challenge and after first giving notice to the elector and the challenger, hold a hearing, accept evidence, and rule upon whether the elector meets or fails to meet the qualifications set forth in Section 7‑5‑120.

 (B) When a challenge is made regarding the residence or domicile of an elector, the board must consider the provisions of Section 7‑1‑25(D).

 (C) Any person denied registration or restoration of his name on the registration books shall have the right of appeal from the decision of the county board of voter registration and elections denying him registration or such restoration to the court of common pleas of the county or any judge thereof and subsequently to the Supreme Court.

HISTORY: 1962 Code Section 23‑73; 1952 Code Section 23‑73; 1950 (46) 2059; 1967 (55) 657; 1999 Act No. 103, Section 2, eff June 30, 1999; 2011 Act No. 27, Section 3, eff May 18, 2011.

Code Commissioner’s Note

Pursuant to the directive in 2014 Act No. 196, Section 8, at the direction of the Code Commissioner, references in this section to county election commissions or commissioners or county boards of voter registration were changed to the “Board of Voter Registration and Elections” and board members as appropriate.

Editor’s Note

2011 Act No. 27, Sections 7 and 8, provide as follows:

“SECTION 7. The State Elections Commission must establish an aggressive voter education program concerning the provisions contained in this legislation. The State Elections Commission must educate the public as follows:

“(1) Post information concerning changes contained in this legislation in a conspicuous location at each county board of registration and elections, each satellite office, the State Elections Commission office, and their respective websites.

“(2) Train poll managers and poll workers at their mandatory training sessions to answer questions by electors concerning the changes in this legislation.

“(3) Require documentation describing the changes in this legislation to be disseminated by poll managers and poll workers at every election held following preclearance by the United States Department of Justice or approval by a declaratory judgment issued by the United States District Court for the District of Columbia, whichever occurs first.

“(4) Coordinate with each county board of registration and elections so that at least two seminars are conducted in each county prior to December 15, 2011.

“(5) Coordinate with local and service organizations to provide for additional informational seminars at a local or statewide level.

“(6) Place an advertisement describing the changes in this legislation in South Carolina newspapers of general circulation by no later than December 15, 2011.

“(7) Coordinate with local media outlets to disseminate information concerning the changes in this legislation.

“(8) Notify each registered elector who does not have a South Carolina issued driver’s license or identification card a notice of the provisions of this act by no later than December 1, 2011. This notice must include the requirements to vote absentee, early, or on election day and a description of voting by provisional ballot. It also must state the availability of a free South Carolina identification card pursuant to Section 56‑1‑3350.

“In addition to the items above, the State Elections Commission may implement additional educational programs in its discretion.

“SECTION 8. The State Election Commission is directed to create a list containing all registered voters of South Carolina who are otherwise qualified to vote but do not have a South Carolina driver’s license or other form of identification containing a photograph issued by the Department of Motor Vehicles as of December 1, 2011. The list must be made available to any registered voter upon request. The Department of Motor Vehicles must provide the list of persons with a South Carolina driver’s license or other form of identification containing a photograph issued by the Department of Motor Vehicles at no cost to the commission. The commission may charge a reasonable fee for the provision of the list in order to recover associated costs of producing the list.”

Effect of Amendment

The 1999 amendment added the second sentence in the first paragraph and the second and third paragraphs regarding challenges and changed “thence” to “subsequently” in the last paragraph.

The 2011 amendment designated the first paragraph as subsection (A); designated the third paragraph as subsection (B), and therein, inserted “or domicile” following “the residence”, substituted “the board must” for “the board may”, and substituted “provisions of Section 7‑1‑25(D)” for “following proof to establish residence including, but not limited to, income tax returns; real estate interests; mailing address; address on driver’s license; official papers and documents requiring the statement of residence address; automobile registration; checking and savings accounts; past voting record; membership in clubs and organizations; location of personal property; and the elector’s statements as to his intent”; and designated the last paragraph as subsection (C).

CROSS REFERENCES

Applicability of this section to an appeal of a decision of the board of registration on an application for registration to vote, see Section 7‑5‑180.

Constitutional right to appeal by person denied registration, see SC Const, Art 2, Section 9.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Elections Section 21, Military.

S.C. Jur. Elections Section 23, Students.

S.C. Jur. Elections Section 33, Sufficiency of Application.

S.C. Jur. Elections Section 34, Appeal.

S.C. Jur. Elections Section 90, Appeal.

NOTES OF DECISIONS

In general 1

1. In general

Circuit court properly refused to hold de novo hearing on challenger’s appeal from city election commission decision certifying incumbent as winner of election for city council seat; challenger was neither denied registration of his name on registration books, nor did he challenge incumbent’s qualifications in writing to board of registration, but rather, challenger, who claimed that incumbent was not resident of district, appealed decision of municipal election commission. Blair v. City of Manning (S.C. 2001) 345 S.C. 141, 546 S.E.2d 649. Election Law 560(1)

The provisions of this section make manifest the intention that registration by the proper officers is conclusive evidence of the qualifications of the elector therefor, until reversed or set aside in the manner prescribed, for which ample time and opportunity is allowed. Rawl v. McCown (S.C. 1914) 97 S.C. 1, 81 S.E. 958.

Registration alone or the possession of a registration certificate does not necessarily entitle the holder thereof to vote, because a registered elector may be denied the right to vote on other grounds. Rawl v. McCown (S.C. 1914) 97 S.C. 1, 81 S.E. 958.

**SECTION 7‑5‑240.** Proceedings on appeal in court of common pleas.

 Any person denied registration or restoration of his name on the registration books and desiring to appeal must within ten days after written notice to him of the decision of the county board of voter registration and elections file with the board a written notice of his intention to appeal therefrom. Within ten days after the filing of such notice of intention to appeal, the board shall file with the clerk of court of common pleas for the county the notice of intention to appeal and any papers in its possession relating to the case, together with a report of the case if it deem proper. The clerk of the court shall file the same and enter the case on a special docket to be known as calendar number four. If the applicant desires the appeal to be heard by a judge at chambers he shall give every member of the board four days’ written notice of the time and place of the hearing. On such appeal the hearing shall be de novo.

HISTORY: 1962 Code Section 23‑74; 1952 Code Section 23‑74; 1950 (46) 2059; 1967 (55) 657.

Code Commissioner’s Note

Pursuant to the directive in 2014 Act No. 196, Section 8, at the direction of the Code Commissioner, references in this section to county election commissions or commissioners or county boards of voter registration were changed to the “Board of Voter Registration and Elections” and board members as appropriate.

CROSS REFERENCES

Appellate review, generally, see Title 18.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Elections Section 34, Appeal.

**SECTION 7‑5‑250.** Right to and proceedings on further appeal to Supreme Court.

 From the decision of the court of common pleas or any judge thereof the applicant may further appeal to the Supreme Court by filing a written notice of his intention to appeal therefrom in the office of the clerk of court of common pleas within ten days after written notice to him of the filing of such decision and within such time serving a copy of such notice on any member of the county board of voter registration and elections. Thereupon, the clerk of the court of common pleas shall certify all the papers in the case to the clerk of the Supreme Court within ten days after the filing of such notice of intention to appeal. The clerk of the Supreme Court shall place the case on a special docket, and it shall come up for hearing upon the call thereof under such rules as the Supreme Court may make. If such appeal be filed with the clerk of the Supreme Court at a time that a session thereof will not be held between the date of filing and election at which the applicant will be entitled to vote if registered, the Chief Justice or, if he is unable to act or disqualified, the senior associate justice shall call an extra term of the court to hear and determine the case.

HISTORY: 1962 Code Section 23‑75; 1952 Code Section 23‑75; 1950 (46) 2059; 1967 (55) 634.

Code Commissioner’s Note

Pursuant to the directive in 2014 Act No. 196, Section 8, at the direction of the Code Commissioner, references in this section to county election commissions or commissioners or county boards of voter registration were changed to the “Board of Voter Registration and Elections” and board members as appropriate.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Elections Section 34, Appeal.

**SECTION 7‑5‑260.** Repealed by 1984 Act No. 510, Section 19, eff June 28, 1984.

Editor’s Note

Former Section 7‑5‑260 was entitled “Reissuance of defaced or lost certificates; appeal” and was derived from 1962 Code Section 23‑78; 1952 Code Section 23‑78; 1950 (46) 2059; 1967 (55) 634.

**SECTION 7‑5‑270.** Repealed by 1984 Act No. 510, Section 19, eff June 28, 1984.

Editor’s Note

Former Section 7‑5‑270 was entitled “Issuance of duplicate certificates when books are closed” and was derived from 1962 Code Section 23‑79; 1957 (50) 671; 1958 (50) 1548.

**SECTION 7‑5‑280.** State Election Commission shall furnish registration forms.

 The applications provided for in this article as well as all other forms necessary for registration, must be furnished to each county by the State Election Commission.

HISTORY: 1962 Code Section 23‑80; 1957 (50) 671; 1971 (57) 85; 1984 Act No. 510, Section 7, eff June 28, 1984.

Effect of Amendment

The 1984 amendment deleted “registration certificates and” before “applications” and changed “shall” to “must.”

CROSS REFERENCES

Creation of the State Election Commission, see Section 7‑3‑10.

ARTICLE 4

Multiple Site Voter Registration and Responsibilities of the State Election Commission in Implementing the National Voter Registration Act of 1993

**SECTION 7‑5‑310.** Definitions; designations.

 (A) As used in this article:

 (1) “Voter registration agency” means an office designated to perform specific voter registration activities;

 (2) “Motor vehicle driver’s license” means any personal identification document issued by the Department of Motor Vehicles.

 (B) There are designated the following voter registration agencies:

 (1) Department of Social Services;

 (2) Department of Health and Environmental Control ‑ WIC program;

 (3) Department of Disabilities and Special Needs;

 (4) Commission for the Blind;

 (5) Department of Vocational Rehabilitation;

 (6) South Carolina Protection and Advocacy System for the Handicapped;

 (7) Armed Forces recruiting offices;

 (8) Alcohol and Other Drug Abuse Services;

 (9) Department of Mental Health.

 (C) At each voter registration agency, the following services must be made available:

 (1) distribution of voter registration application forms in accordance with subsection (F);

 (2) assistance to applicants in completing voter registration application forms, unless the applicant refuses the assistance;

 (3) acceptance of completed voter registration application forms for transmittal to the county board of voter registration and elections.

 (D) If a voter registration agency designated under the provisions of this section provides services to a person with a disability at the person’s home, the agency shall provide the services described in subsection (C) at the person’s home.

 (E) A person who provides services described in subsection (C) may not:

 (1) seek to influence an applicant’s political preference;

 (2) display a political preference or party allegiance;

 (3) make any statement to an applicant or take any action, the purpose or effect of which is to discourage the applicant from registering to vote; or

 (4) make any statement to an applicant or take any action, the purpose or effect of which is to lead the applicant to believe that a decision to register to vote has any bearing on the availability of services or benefits.

 (F) A voter registration agency that is an office that provides service or assistance in addition to conducting voter registration shall:

 (1) distribute to each applicant for the service or assistance, and with each recertification, renewal, or change of address form relating to the service or assistance the voter registration application form, including a statement that:

 (a) specifies each eligibility requirement (including citizenship);

 (b) contains an attestation that the applicant meets the requirement; and

 (c) requires the signature of the applicant, under penalty of perjury; or

 (2)(a) provide a form that includes:

 (i) the question, “If you are not registered to vote where you live now, would you like to apply to register to vote here today?”;

 (ii) if the agency provides public assistance, the statement, “Applying to register or declining to register to vote will not affect the amount of assistance that you will be provided by this agency.”;

 (iii) boxes for the applicant to check to indicate whether the applicant would like to register or decline to register to vote (failure to check either box being considered to constitute a declination to register for purposes of subsection (G), together with the statement (in close proximity to the boxes and in prominent type), “IF YOU DO NOT CHECK EITHER BOX, YOU WILL BE CONSIDERED TO HAVE DECIDED NOT TO REGISTER TO VOTE AT THIS TIME.”;

 (iv) the statement, “If you would like help in filling out the voter registration application form, we will help you. The decision whether to seek or accept help is yours. You may fill out the application form in private.”; and

 (v) the statement, “If you believe that someone has interfered with your right to register or decline to register to vote, your privacy in deciding whether to register or in applying to register to vote, you may file a complaint with the State Election Commission.” The name, address, and telephone number of the Executive Director of the State Election Commission must be printed on the form; and

 (b) provide to each applicant who does not decline to register to vote the same degree of assistance with regard to the completion of the registration application form as is provided by the office with regard to the completion of its own forms, unless the applicant refuses the assistance.

 (G) No information relating to a declination to register to vote in connection with an application made at an office described in subsection (B) may be used for any purpose other than voter registration.

 (H)(1) A completed registration application accepted at a voter registration agency must be transmitted to the county board of voter registration and elections not later than ten days after acceptance.

 (2) If a registration application is accepted within five days before the last day for registration to vote in an election, the application must be transmitted to the county board of voter registration and elections not later than five days after the date of acceptance.

HISTORY: 1996 Act No. 466, Section 1, eff August 21, 1996.

Code Commissioner’s Note

Pursuant to the direction to the Code Commissioner in 2003 Act No. 51, Section 18, “Department of Public Safety” was changed to “Department of Motor Vehicles” in paragraph (A)(2).

Pursuant to the directive in 2014 Act No. 196, Section 8, at the direction of the Code Commissioner, references in this section to county election commissions or commissioners or county boards of voter registration were changed to the “Board of Voter Registration and Elections” and board members as appropriate.

**SECTION 7‑5‑320.** Application for motor vehicle driver’s license and voter registration.

 (A)(1) Each state motor vehicle driver’s license application, including a renewal application, submitted to the Department of Motor Vehicles serves as an application for voter registration unless the applicant fails to sign the voter registration application. Failure to sign the voter registration portion of the driver’s license application serves as a declination to register.

 (2) An application for voter registration submitted under item (1) is considered to update any previous voter registration by the applicant.

 (B) No information relating to the failure of an applicant for a state motor vehicle driver’s license to sign a voter registration application may be used for any purpose other than voter registration.

 (C)(1) The Department of Motor Vehicles shall include a voter registration form as part of an application for a state motor vehicle driver’s license.

 (2) The voter registration application portion of an application for a state motor vehicle driver’s license:

 (a) may not require any information that duplicates information required in the driver’s license portion of the form, other than a second signature or other information necessary under subitem (c);

 (b) may require only the minimum amount of information necessary to:

 (i) prevent duplicate voter registrations; and

 (ii) enable a county board of voter registration and elections to assess the eligibility of the applicant and to administer voter registration and other parts of the election process;

 (c) includes a statement that:

 (i) states each eligibility requirement, including citizenship;

 (ii) contains an attestation that the applicant meets each requirement; and

 (iii) requires the signature of the applicant under penalty of perjury;

 (d) includes in print identical to that used in the attestation portion of the application:

 (i) the information required in Section 7‑5‑320(C)(2)(c);

 (ii) a statement that, if an applicant declines to register to vote, the fact that the applicant has declined to register will remain confidential and will be used only for voter registration purposes; and

 (iii) a statement that, if an applicant does register to vote, the office at which the applicant submits a voter registration application will remain confidential and will be used only for voter registration purposes; and

 (e) must be made available, as submitted by the applicant, to the county board of voter registration and elections in which the application is made.

 (D) A change of address form submitted in accordance with state law for purposes of a state motor vehicle driver’s license serves as notification of change of address for voter registration unless the qualified elector states on the form that the change of address is not for voter registration purposes.

 (E)(1) A completed voter registration portion of an application for a state motor vehicle driver’s license accepted at a state motor vehicle authority must be transmitted to the county board of voter registration and elections no later than ten days after the date of acceptance.

 (2) If a registration application is accepted within five days before the last day for registration to vote in an election, the application must be transmitted to the county board of voter registration and elections not later than five days after the date of acceptance.

HISTORY: 1996 Act No. 466, Section 1, eff August 21, 1996.

Code Commissioner’s Note

Pursuant to the direction to the Code Commissioner in 2003 Act No. 51, Section 18, “Department of Public Safety, Division of Motor Vehicles,” was changed to “Department of Motor Vehicles” in paragraphs (A)(1) and (C)(1).

Pursuant to the directive in 2014 Act No. 196, Section 8, at the direction of the Code Commissioner, references in this section to county election commissions or commissioners or county boards of voter registration were changed to the “Board of Voter Registration and Elections” and board members as appropriate.

**SECTION 7‑5‑325.** Address changes given under oath; fraud; penalties.

 Any change of address submitted by an elector for registration or voting purposes as provided by Sections 7‑5‑320(D), 7‑5‑330(F)(2)(a), and 7‑5‑440, and any other written notification of change of address signed by an elector are considered to be given under oath. An elector convicted of fraudulently providing such change of address is guilty of violating Section 7‑25‑10 and, upon conviction, must be fined in the discretion of the court or imprisoned not more than three years, or both.

HISTORY: 1999 Act No. 103, Section 3, eff June 30, 1999.

**SECTION 7‑5‑330.** Completion, receipt, and disposition of voter registration application; discretionary removal of elector.

 (A) In the case of registration with a motor vehicle application under Section 7‑5‑320, the valid voter registration form of the applicant must be completed at the Department of Motor Vehicles no later than thirty days before the date of the election.

 (B) In the case of registration by mail under Section 7‑5‑155, the valid voter registration form of the applicant must be postmarked no later than thirty days before the date of the election.

 (C) In the case of registration at a voter registration agency, the valid voter registration form of the applicant must be completed at the voter registration agency no later than thirty days before the date of the election.

 (D) In any other case, the valid voter registration form of the applicant must be received by the county board of voter registration and elections no later than thirty days before the date of the election.

 (E)(1) The county board of voter registration and elections shall:

 (a) send notice to each applicant of the disposition of the application; and

 (b) ensure that the identity of the voter registration agency through which a particular voter is registered is not disclosed to the public.

 (2) If the notice sent pursuant to the provisions of subitem (a) of this item is returned to the county board of voter registration and elections as undeliverable, the elector to whom it was sent must be reported by the board to the State Election Commission. The State Election Commission must place the elector in an inactive status on the master file and may remove this elector upon compliance with the provisions of Section 7‑5‑330(F).

 (F)(1) The State Election Commission may not remove the name of a qualified elector from the official list of eligible voters on the ground that the qualified elector has changed residence unless the qualified elector:

 (a) confirms in writing that the qualified elector has changed residence to a place outside the county in which the qualified elector is registered; or

 (b)(i) has failed to respond to a notice described in item (2); and

 (ii) has not voted or appeared to vote and, if necessary, correct the county board of voter registration and elections record of the qualified elector’s address, in an election during the period beginning on the date of the notice and ending on the day after the date of the second general election that occurs after the date of the notice.

 (2) “Notice”, as used in this item, means a postage prepaid and preaddressed return card, sent by forwardable mail, on which the qualified elector may state his current address, together with a statement to the following effect:

 (a) if the qualified elector did not change his residence, or changed residence but remained in the same county, the qualified elector shall return the card no later than thirty days before the date of the election. If the card is not returned, affirmation or confirmation of the qualified elector’s address may be required before the qualified elector is permitted to vote during the period beginning on the date of the notice and ending on the day after the date of the second general election that occurs after the date of the notice, and if the qualified elector does not vote in an election during that period, the qualified elector’s name must be removed from the list of eligible voters;

 (b) if the qualified elector has changed residence to a place outside the county in which the qualified elector is registered, information as to how the qualified elector can re‑register to vote.

 (3) The county board of voter registration and elections shall correct an official list of eligible voters in accordance with change of residence information obtained pursuant to the provisions of this subsection.

 (4) The program required pursuant to the provisions of subsection (F) of this section must be completed no later than ninety days before the date of a statewide primary or general election.

HISTORY: 1996 Act No. 466, Section 1, eff August 21, 1996.

Code Commissioner’s Note

Pursuant to the direction to the Code Commissioner in 2003 Act No. 51, Section 18, “Department of Public Safety, Division of Motor Vehicles,” was changed to “Department of Motor Vehicles” in subsection (A).

Pursuant to the directive in 2014 Act No. 196, Section 8, at the direction of the Code Commissioner, references in this section to county election commissions or commissioners or county boards of voter registration were changed to the “Board of Voter Registration and Elections” and board members as appropriate.

United States Supreme Court Annotations

Elections, temporary restraining order, enforcement of voter registration verification requirements, see Brunner v. Ohio Republican Party, 2008, 129 S.Ct. 5, 555 U.S. 5, 172 L.Ed.2d 4.

**SECTION 7‑5‑340.** Duties of State Election Commission respecting removal of elector from official list.

 The State Election Commission shall:

 (1) ensure that the name of a qualified elector may not be removed from the official list of eligible voters except:

 (a) at the request of the qualified elector;

 (b) if the elector is adjudicated mentally incompetent by a court of competent jurisdiction; or

 (c) as provided under item (2);

 (2) conduct a general program that makes a reasonable effort to remove the names of ineligible voters from the official lists of eligible voters by reason of:

 (a) the death of the qualified elector; or

 (b) a change in the residence of the qualified elector;

 (3) inform applicants under Sections 7‑5‑155, 7‑5‑310, and 7‑5‑320 of:

 (a) voter eligibility requirements; and

 (b) penalties provided by law for submission of a false voter registration application;

 (4) complete, no later than ninety days before the date of a statewide primary or general election, a program to systematically remove the names of ineligible voters from the official lists of eligible voters in compliance with the provisions of Section 7‑5‑330(F); this subitem may not be construed to preclude:

 (a) the removal of names from official lists of voters on a basis described in items (1) and (2); or

 (b) correction of registration records pursuant to this article.

HISTORY: 1996 Act No. 466, Section 1, eff August 21, 1996.

RESEARCH REFERENCES

ALR Library

120 ALR 5th 125 , Constitutionality of Voter Participation Provisions for Primary Elections.

Encyclopedias

S.C. Jur. Elections Section 44, Election.

ARTICLE 5

Registration Books, Lists of Electors and the Like

**SECTION 7‑5‑410.** Maintenance and inspection of official registration records.

 Each county board of voter registration and elections shall deposit the official records of registration for safekeeping in the board’s office or in the office of the clerk of court of common pleas for its county, who shall keep them with the other records in his office. The official registration records shall be public records open to the inspection of any citizen at all times and shall not be removed from the office by any person except the county board of voter registration and elections which may take and keep them as long as may be necessary to enable it to perform its duties. The official records of registration shall not be kept anywhere else except when their use is required elsewhere by the provisions of this Title.

HISTORY: 1962 Code Section 23‑97; 1952 Code Section 23‑97; 1950 (46) 2059; 1967 (55) 634.

Code Commissioner’s Note

Pursuant to the directive in 2014 Act No. 196, Section 8, at the direction of the Code Commissioner, references in this section to county election commissions or commissioners or county boards of voter registration were changed to the “Board of Voter Registration and Elections” and board members as appropriate.

LIBRARY REFERENCES

29 C.J.S., Elections Section 47.

Attorney General’s Opinions

This section [Code 1962 Section 23‑97] has reference to all of the records relating to registration, including the copies or duplicates of the registration books which are prepared for use in the various precincts. 1963‑64 Op Atty Gen, No. 1718(b), p 194.

Restriction of right of inspection. While the records are being kept by the boards of registration for the performance of their duties, the right of inspection may be restricted, partially or completely, by the board of registration, depending upon whether the board determines that inspection may interfere with the process of registration. 1963‑64 Op Atty Gen, No. 1718(b), p 194.

**SECTION 7‑5‑420.** Lists of voters for party primaries.

 Immediately preceding each party primary election the board of voter registration and elections in each county shall furnish to the county committee of each political party proposing to hold a primary two official lists of voters for each polling precinct in the county, containing in each the names of all electors entitled to vote at each precinct.

HISTORY: 1962 Code Section 23‑98; 1952 Code Section 23‑98; 1950 (46) 2059; 1967 (55) 634.

Code Commissioner’s Note

Pursuant to the directive in 2014 Act No. 196, Section 8, at the direction of the Code Commissioner, references in this section to county election commissions or commissioners or county boards of voter registration were changed to the “Board of Voter Registration and Elections” and board members as appropriate.

RESEARCH REFERENCES

ALR Library

120 ALR 5th 125 , Constitutionality of Voter Participation Provisions for Primary Elections.

Encyclopedias

S.C. Jur. Elections Section 44, Election.

Notes of Decisions

Freedom of association 1

1. Freedom of association

South Carolina’s open primary laws, which allowed a voter to request the ballot for any party’s primary whether or not voter was registered as a member of that party but allowed voter to cast vote in only one party’s primary election, did not facially burden political parties’ right to freedom of association; even if a political party could not conduct a closed primary, the party could opt out of the primary method and use alternative methods of nomination authorized under South Carolina election laws, including convention method and petition method, allowing parties to associate with only those people approved for membership in the party. Greenville County Republican Party Executive Committee v. South Carolina, 2011, 824 F.Supp.2d 655, motion to amend denied 2011 WL 2910360, appeal dismissed 604 Fed.Appx. 244, 2015 WL 1188395. Constitutional Law 1468; Election Law 67

**SECTION 7‑5‑430.** Books for general and special elections.

 Immediately preceding each general election or any special election, the county board of voter registration and elections must furnish one registration book for each polling precinct in the county containing the names of all electors entitled to vote at each precinct.

HISTORY: 1962 Code Section 23‑99; 1952 Code Section 23‑99; 1950 (46) 2059; 1996 Act No. 434, Section 2, eff June 4, 1996.

Code Commissioner’s Note

Pursuant to the directive in 2014 Act No. 196, Section 8, at the direction of the Code Commissioner, references in this section to county election commissions or commissioners or county boards of voter registration were changed to the “Board of Voter Registration and Elections” and board members as appropriate. The prior text “furnish to the commissioners of election for their county” was deleted as unnecessary.

Effect of Amendment

The 1996 amendment inserted a comma following “any special election”, substituted “must” for “shall” following “the board of registration”, substituted “one registration book” for “two registration books”, and deleted “in each” preceding “the names of all electors”.

**SECTION 7‑5‑440.** Failure to notify county board of voter registration and elections of change in address.

 (A) A qualified elector who has moved from an address in a precinct to an address in the same precinct shall, notwithstanding failure to notify the county board of voter registration and elections of the change of address prior to the date of an election, be permitted to vote at that precinct’s polling place upon oral or written affirmation by the qualified elector of the change of address before an election official at that polling place.

 (B) A qualified elector who has moved from an address in one precinct to an address in another precinct within the same county, or has moved to another county within the thirty‑day period before an election, and who has failed to notify the county board of voter registration and elections of the change of address before the date of an election, at the option of the elector:

 (1) must be permitted to correct the voting records and vote provisional ballots containing only the races for federal, statewide, countywide, and municipalwide offices pursuant to the provisions of Section 7‑13‑830 at the elector’s former polling place, upon oral or written affirmation by the elector of the new address before an election official at that polling place; or

 (2) must be permitted to correct the voting records and vote at a central location located at the main office of the county board of voter registration and elections in his new county of residence where a list of eligible voters is maintained, upon written affirmation by the elector of the new address on a standard form provided at the central location.

 (C) If the registration records indicate inaccurately that a qualified elector has moved from an address in the precinct, the elector shall be permitted to vote at that polling place, upon oral or written affirmation by the elector before an election official at that polling place that the qualified elector continues to reside at his address.

 (D) For voting purposes, in the case of a change of address of a qualified elector to another address within the same county, the county board of voter registration and elections shall correct the voting registration list accordingly, and the elector’s name may not be removed from the official list of eligible voters except as provided in Section 7‑5‑330(F).

 (E) At least one member of the county board of voter registration and elections, the clerk, or deputy registrar must be present in the board’s office at all hours during which the polls are open on every election day for the purpose of carrying out the provisions of this section.

HISTORY: 1962 Code Section 23‑100; 1952 Code Section 23‑100; 1950 (46) 2059; 1967 (55) 657; 1968 (55) 2316; 1984 Act No. 510, Section 8, eff June 28, 1984; 1996 Act No. 466, Section 6, eff August 21, 1996; 2000 Act No. 392, Section 2, eff August 1, 2000.

Code Commissioner’s Note

Pursuant to the directive in 2014 Act No. 196, Section 8, at the direction of the Code Commissioner, references in this section to county election commissions or commissioners or county boards of voter registration were changed to the “Board of Voter Registration and Elections” and board members as appropriate.

Effect of Amendment

The 1984 amendment substantially reworded this section.

The 1996 amendment revised this section.

The 2000 amendment, in the first undesignated paragraph of subsection (B), was amended by adding “or has moved to another with the thirty‑day period before an election,”, in paragraph (1), added “, and municipalwide” and in paragraph (2), added “in his new county of residence”.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Elections Section 57, Proving Right to Vote.

S.C. Jur. Elections Section 91, Legal Standard to Overturn Election.

Attorney General’s Opinions

Failure of registration officials to make proper record will not deny elector right to vote. The mere failure of registration officials to record the name, address, and age of an otherwise properly registered elector in the registration book will not operate to deny to such elector his right to cast his ballot. 1963‑64 Op Atty Gen, No. 1679, p 127.

Elector whose name is omitted from books at polling place must obtain certificate. In the event a name is omitted from the books at the polling place, the defect may be remedied under the provisions of this section [Code 1962 Section 23‑100] by obtaining the certificate required therein, but the elector should not be permitted to vote unless he does obtain such certificate. 1963‑64 Op Atty Gen, No. 1679, p 127.

But one whose name has been inadvertently left off all books should be allowed to vote. If the name of the elector has been inadvertently left off all registration books, that is, the county book, the county book filed with the Secretary of State, and the books at the polling places, the elector is not at fault for these omissions and has no statutory remedy. He should, therefore, be permitted to vote. 1963‑64 Op Atty Gen, No. 1679, p 127.

NOTES OF DECISIONS

In general 1

1. In general

Two illegal votes, cast by persons who no longer lived in the precinct at which they voted at time of election, warranted rejection of the votes and, given that rejection of the votes resulted in declared winner of election for city council no longer carrying a majority of the total votes cast, a new election was required; disregard of the election statutes requiring electors to be residents of the precincts in which they vote and failure to follow statutory procedure for voters who had moved to a new precinct constituted more than a mere irregularity or illegality. Gecy v. Bagwell (S.C. 2007) 372 S.C. 237, 642 S.E.2d 569. Election Law 497; Election Law 560(3)

Persons registered prior to 1898 need not appear on the books. Persons who were registered prior to 1898 may vote, although their names do not appear on the books. State v. Jennings (S.C. 1908) 79 S.C. 246, 60 S.E. 699.

This section adds no additional constitutional qualifications to the right of suffrage. Wright v. State Board of Canvassers (S.C. 1907) 76 S.C. 574, 57 S.E. 536.

It merely requires proof of the constitutional qualifications. The provisions herein provided regulate the right of suffrage by requiring proof of the constitutional qualifications as a prerequisite to voting, and are a safeguard against illegal voting. Wright v. State Board of Canvassers (S.C. 1907) 76 S.C. 574, 57 S.E. 536.

The provisions of this section are mandatory. Wright v. State Board of Canvassers (S.C. 1907) 76 S.C. 574, 57 S.E. 536.

And votes cast without compliance therewith are invalid. Wright v. State Board of Canvassers (S.C. 1907) 76 S.C. 574, 57 S.E. 536.

Production of registration certificate is a condition precedent to voting. The conclusion is inevitable that it was the intention of the lawmakers that the possession of a registration certificate should be held to be a qualification for suffrage, and that its production at the polls should be a condition precedent to the exercise of the franchise. Wright v. State Board of Canvassers (S.C. 1907) 76 S.C. 574, 57 S.E. 536.

**SECTION 7‑5‑450.** Repealed by 1984 Act No. 510, Section 19, eff June 28, 1984.

Editor’s Note

Former Section 7‑5‑450 was entitled “Who is to furnish certificate to prove registration” and was derived from 1962 Code Section 23‑101; 1952 Code Section 23‑101; 1950 (46) 2059; 1967 (55) 657; 1968 (55) 2316.

**SECTION 7‑5‑460.** Custody of books and return after election.

 The commissioners of election or the county committee, as the case may be, shall turn over registration books to the election managers of each polling precinct, who are responsible for the care and custody of these books and the return of them within three days after the election. The commissioners of election or the county committee, as the case may be, shall return the books to the board of registration before the day on which the books of registration are next required by law to be opened by the board of registration and not later than twenty days after the election.

HISTORY: 1962 Code Section 23‑102; 1952 Code Section 23‑102; 1950 (46) 2059; 2010 Act No. 245, Section 2, eff June 2, 2010.

Code Commissioner’s Note

Pursuant to the directive in 2014 Act No. 196, Section 8, at the direction of the Code Commissioner, references in this section to county election commissions or commissioners or county boards of voter registration were changed to the “Board of Voter Registration and Elections” and board members as appropriate.

Effect of Amendment

The 2010 amendment made nonsubstantive changes to the section.

**SECTION 7‑5‑470.** Division of registration books into sections.

 The county board of voter registration and elections may divide the registration books into as many separate sections as shall be directed by the county committee of any political party, the cost of such additional separate section or sections to be borne by such county committee. The books constituting a separate section or sections shall first be approved by the State Election Commission.

HISTORY: 1962 Code Section 23‑103; 1952 Code Section 23‑103; 1950 (46) 2059, 2442; 1971 (57) 85.

Code Commissioner’s Note

Pursuant to the directive in 2014 Act No. 196, Section 8, at the direction of the Code Commissioner, references in this section to county election commissions or commissioners or county boards of voter registration were changed to the “Board of Voter Registration and Elections” and board members as appropriate.

ARTICLE 7

Special Provisions for Municipal Elections

**SECTION 7‑5‑610.** Who is entitled to vote in municipal elections.

 Every citizen of this State and of the United States:

 (1) Of the age of eighteen years and upwards;

 (2) Having all the qualifications mentioned in Section 7‑5‑120;

 (3) Who has resided within the corporate limits of any incorporated municipality in this State for thirty days previous to any municipal election;

 (4) Who has been registered for county, state, and national elections as herein required;

 is entitled to vote at all municipal elections of his municipality.

HISTORY: 1962 Code Section 23‑111; 1952 Code Section 23‑111; 1950 (46) 2059; 1951 (47) 78; 1984 Act No. 290, Section 1, eff March 5, 1984.

Effect of Amendment

The 1984 amendment substantially revised this section by changing “twenty‑one” to “eighteen” in subsection (1), substituting “municipality” for “city or town,” and “thirty days” for “four months” in subsection (2), and substituting “municipality” for “city or town” in subsections (3) and (4).

CROSS REFERENCES

Absentee voting in municipal elections, see Section 7‑15‑390.

Elections concerning the issuance of municipal general obligation bonds, see Sections 5‑21‑250 to 5‑21‑320.

Nominations and elections for municipal offices, see Sections 5‑15‑10 et seq.

Qualifications of municipal electors, see SC Const, Art 2, Section 5.

LIBRARY REFERENCES

29 C.J.S., Elections Sections 14 et seq.

RESEARCH REFERENCES

ALR Library

120 ALR 5th 125 , Constitutionality of Voter Participation Provisions for Primary Elections.

Encyclopedias

S.C. Jur. Elections Section 44, Election.

S.C. Jur. Elections Section 91, Legal Standard to Overturn Election.

Attorney General’s Opinions

Person must be registered to vote 30 days before municipal election in order to be qualified candidate. 1984 Op Atty Gen, No. 84‑71, p. 185.

NOTES OF DECISIONS

In general 1

1. In general

Different conduct for municipal elections intended. It appears that the intention of the law was to prescribe different regulations for the conduct of town elections to those fixed for county and State elections, and that one of the differences is that the law requires a showing of the payment of all taxes due to be made before the town registration officer in the case of municipal elections while the same showing is required to be made before the managers of election in cases of county and State elections. Davis v. Town of Saluda (S.C. 1928) 147 S.C. 498, 145 S.E. 412.

Registration for municipal elections is good for only two years. The reason for this difference is manifest. In the case of county and State elections registration holds good for a ten‑year period, while in municipal elections it is only good for two years at the most. Davis v. Town of Saluda (S.C. 1928) 147 S.C. 498, 145 S.E. 412.

Presentation of tax receipt unnecessary where no tax period has intervened after registration. It is unnecessary that voters at a municipal election show tax receipts at the time of voting where no tax period has intervened after registration. Davis v. Town of Saluda (S.C. 1928) 147 S.C. 498, 145 S.E. 412. Municipal Corporations 279

There is nothing in the section clearly indicating a purpose to deny the right to vote at special elections under the general municipal registrations. Logan v. Stanley (S.C. 1913) 95 S.C. 22, 78 S.E. 524.

**SECTION 7‑5‑620.** Production of identification and proof of residence.

 The production of a valid South Carolina driver’s license or other form of identification required by Section 7‑13‑710, if he is not licensed to drive, and proof of the residence of the elector within the limits of the municipality for thirty days preceding any election constitutes conditions prerequisite to the right of any elector to vote.

HISTORY: 1962 Code Section 23‑112; 1952 Code Section 23‑112; 1951 (47) 78; 1984 Act No. 290, Section 2, eff March 5, 1984; 1984 Act No. 510, Section 9, eff June 28, 1984.

Effect of Amendment

The first 1984 amendment substituted “municipality” for “city or town”, and “thirty days” for “four months”.

The second 1984 amendment rewrote the section to provide that a voter must produce his driver’s license or other form of identification rather than a certificate of registration from the board of registration.

CROSS REFERENCES

General registrations, see Section 7‑5‑120.

Time and place where books are to be kept open for registration, see Section 7‑5‑130.

LIBRARY REFERENCES

29 C.J.S., Elections Sections 38, 46.

Attorney General’s Opinions

Individual who no longer resides in district for which he was elected would no longer be qualified to hold office but would continue to serve until his successor has been elected and qualified. 1993 Op Atty Gen No. 93‑39.

Individual who no longer resides in district for which he was elected would no longer be qualified to hold office but would continue to serve until his successor has been elected and qualified. 1993 Op Atty Gen No. 93‑39.

NOTES OF DECISIONS

In general 1

1. In general

Failure to open books for full ninety days before town election did not make election void where there was no showing that any qualified electors failed to register because of lack of open books thereof. Davis v. Town of Cayce (S.C. 1932) 166 S.C. 372, 164 S.E. 883. Election Law 135

That registration officer was not qualified voter of town did not make election invalid. Davis v. Town of Cayce (S.C. 1932) 166 S.C. 372, 164 S.E. 883. Election Law 135

This section was constitutional in the absence of a constitutional requirement as to the time of closing. Fowler v. Town Council of Town of Fountain Inn (S.C. 1912) 90 S.C. 352, 73 S.E. 626.

**SECTION 7‑5‑630.** Municipal registration or enrollment shall not be required.

 There shall be no registration or enrollment required for voting in municipal elections except the registration required for voting in county, State and national elections.

HISTORY: 1962 Code Section 23‑113; 1952 Code Section 23‑113; 1951 (47) 78, 229.

RESEARCH REFERENCES

ALR Library

120 ALR 5th 125 , Constitutionality of Voter Participation Provisions for Primary Elections.

Encyclopedias

S.C. Jur. Elections Section 44, Election.

**SECTION 7‑5‑640.** Repealed by Act No. 290, Section 4, eff March 5, 1984.

Editor’s Note

Former Section 7‑5‑640 was entitled “Municipal supervisors of registration; appointment; term; compensation; assistants and deputies” and was derived from 1962 Code Section 23‑114; 1952 Code Section 23‑114; 1950 (46) 2059; 1951 (47) 78, 229.

Attorney General’s Opinions

Municipal supervisor of registration is officer within meaning of SC Const, Art 2, Section 2 (now Art 17, Section 1A). Op. Atty Gen May 15, 1963.

**SECTION 7‑5‑650.** Repealed by Act No. 290, Section 4, eff March 5, 1984.

Editor’s Note

Former Section 7‑5‑650 was entitled “Filling vacancies in office of municipal supervisor of registration” and was derived from 1962 Code Section 23‑115; 1952 Code Section 23‑115; 1951 (47) 78, 229].

**SECTION 7‑5‑660.** Preparation of registration books.

 The Executive Director of the State Election Commission must, along with the county board of voter registration and elections in each county, prepare duplicate sets of books of registration for each ward or each precinct, showing the duly registered electors, according to the county registration books, living in each particular ward or precinct in the municipality.

HISTORY: 1962 Code Section 23‑116; 1952 Code Section 23‑116; 1951 (47) 78, 229; 1984 Act No. 290, Section 3, eff March 5, 1984.

Code Commissioner’s Note

Pursuant to the directive in 2014 Act No. 196, Section 8, at the direction of the Code Commissioner, references in this section to county election commissions or commissioners or county boards of voter registration were changed to the “Board of Voter Registration and Elections” and board members as appropriate.

Effect of Amendment

The 1984 amendment substituted “The Executive Director of the State Election Committee must” for “Such supervisors of registration shall”, and “municipality” for “city or town”.

**SECTION 7‑5‑670.** Use and custody of registration books.

 The books of registration must be prepared and turned over to the managers of each voting place within the ward or precinct for use in conducting all municipal elections, but immediately following a municipal election the books must be turned over to the county board of voter registration and elections.

HISTORY: 1962 Code Section 23‑117; 1952 Code Section 23‑117; 1951 (47) 78, 229; 1996 Act No. 434, Section 3, eff June 4, 1996.

Code Commissioner’s Note

Pursuant to the directive in 2014 Act No. 196, Section 8, at the direction of the Code Commissioner, references in this section to county election commissions or commissioners or county boards of voter registration were changed to the “Board of Voter Registration and Elections” and board members as appropriate.

Effect of Amendment

The 1996 amendment substituted “must” for “shall” throughout this section, substituted “a municipal election the” for “any municipal election such”, and deleted “and shall be safely kept in the office of the clerk of the court at the courthouse” following “board of registration”.

**SECTION 7‑5‑675.** Voter registration cards; use.

 The State Elections Commission shall implement a system in order to issue voter registration cards with a photograph of the elector. This voter registration card may be used for voting purposes only.

HISTORY: 2011 Act No. 27, Section 4, eff upon preclearance approval or declaratory judgment.

Editor’s Note

2011 Act No. 27, Sections 7, 8, and 11, provide as follows:

“SECTION 7. The State Elections Commission must establish an aggressive voter education program concerning the provisions contained in this legislation. The State Elections Commission must educate the public as follows:

“(1) Post information concerning changes contained in this legislation in a conspicuous location at each county board of registration and elections, each satellite office, the State Elections Commission office, and their respective websites.

“(2) Train poll managers and poll workers at their mandatory training sessions to answer questions by electors concerning the changes in this legislation.

“(3) Require documentation describing the changes in this legislation to be disseminated by poll managers and poll workers at every election held following preclearance by the United States Department of Justice or approval by a declaratory judgment issued by the United States District Court for the District of Columbia, whichever occurs first.

“(4) Coordinate with each county board of registration and elections so that at least two seminars are conducted in each county prior to December 15, 2011.

“(5) Coordinate with local and service organizations to provide for additional informational seminars at a local or statewide level.

“(6) Place an advertisement describing the changes in this legislation in South Carolina newspapers of general circulation by no later than December 15, 2011.

“(7) Coordinate with local media outlets to disseminate information concerning the changes in this legislation.

“(8) Notify each registered elector who does not have a South Carolina issued driver’s license or identification card a notice of the provisions of this act by no later than December 1, 2011. This notice must include the requirements to vote absentee, early, or on election day and a description of voting by provisional ballot. It also must state the availability of a free South Carolina identification card pursuant to Section 56‑1‑3350.

“In addition to the items above, the State Elections Commission may implement additional educational programs in its discretion.

“SECTION 8. The State Election Commission is directed to create a list containing all registered voters of South Carolina who are otherwise qualified to vote but do not have a South Carolina driver’s license or other form of identification containing a photograph issued by the Department of Motor Vehicles as of December 1, 2011. The list must be made available to any registered voter upon request. The Department of Motor Vehicles must provide the list of persons with a South Carolina driver’s license or other form of identification containing a photograph issued by the Department of Motor Vehicles at no cost to the commission. The commission may charge a reasonable fee for the provision of the list in order to recover associated costs of producing the list.”

“SECTION 11. SECTION 4 takes effect upon preclearance approval by the United States Department of Justice or approval by a declaratory judgment issued by the United States District Court for the District of Columbia, whichever occurs first. However, the implementation of the procedures provided for in this SECTION is contingent upon the State Election Commission’s receipt of funds necessary to implement these provisions. Until the provisions of this SECTION are fully funded and executed, implementation of the provisions of this SECTION shall not prohibit the State Election Commission from issuing voter registration cards by the methods allowed prior to the implementation of this SECTION.”

The United States District Court for the District of Columbia precleared sections 4, 5, 7, and 8 of 2011 Act No. 27 for future elections in South Carolina beginning with any elections in 2013, see South Carolina v. U.S., 898 F.Supp.2d 30, 2012 WL 4814094 (D.D.C.,2012).

CROSS REFERENCES

Dealers in precious metals, dealer to keep records of certain purchases, identification of seller required, seller’s identity not to be publicized, see Section 40‑54‑40.

LAW REVIEW AND JOURNAL COMMENTARIES

“Things have changed in the South”: How preclearance of South Carolina’s Voter Photo ID Law demonstrates that Section 5 of the Voting Rights Act is no longer a constitutional remedy. John G. Tamasitis, 64 S.C. L. Rev. 959 (Summer 2013).