CHAPTER 11

Sheriffs—Election, Qualifications and Vacancies in Office

**SECTION 23‑11‑10.** Time for election.

 There shall be an election for sheriff held in each county at the general election in each presidential election year.

HISTORY: 1962 Code Section 53‑51; 1952 Code Section 53‑51; 1942 Code Section 3473; 1932 Code Section 3473; Civ. C. ‘22 Section 2022; Civ. C. ‘12 Section 1136; Civ. C. ‘02 Section 820; G. S. 642; R. S. 703; 1870 (14) 338; 1882 (18) 682; 1885 (19) 144; 1888 (20) 171; 1933 (38) 97.

CROSS REFERENCES

Appointments by the Governor to fill vacancies in county offices, see Sections 1‑3‑220 and 4‑11‑20.

Constitutional provision regarding selection, duties, and compensation of law enforcement officials, see SC Const, Art 5, Section 24.

Elections generally, see Title 7.

Forfeiture of commission upon conviction of failing to perform duty to protect property threatened by mob, see Section 16‑5‑30.

Provision that the Sheriff’s Department of any county is an “authorized agency” for purposes of the Motor Vehicle Theft and Motor Vehicle Insurance Fraud Reporting‑Immunity Act, see Section 38‑77‑1120.

Special officers on railroads or other common carriers, see Sections 58‑13‑910 et seq.

Library References

Sheriffs and Constables 2.

Westlaw Topic No. 353.

C.J.S. Sheriffs and Constables Section 2.

Attorney General’s Opinions

Powers and duties of sheriff may be changed at will by the General Assembly. 1966‑67 Op. Atty Gen, No 2252, p 59.

NOTES OF DECISIONS

In general 1

1. In general

Under this section and what is now Section 23‑11‑40, it was the definite intention of the General Assembly that an appointee of the Governor to fill a vacancy in the office of sheriff would be entitled to hold an office until the next general election “for county sheriffs.” Privette v. Grinnell (S.C. 1939) 191 S.C. 376, 4 S.E.2d 305. Public Employment 184; Sheriffs And Constables 5

**SECTION 23‑11‑20.** Oath.

 Every sheriff before entering upon the duties of his office shall, in addition to the oath of office prescribed in Article 3, section 26, of the Constitution, take the oath required of such officer by Section 8‑3‑20 and such oaths shall be endorsed on the commission and shall be taken and subscribed before the clerk of the court of the county. At the next term of the circuit court in the county he shall produce his commission, which shall be read in open court and recorded in the journal.

HISTORY: 1962 Code Section 53‑53; 1952 Code Section 53‑53; 1942 Code in the journal. Section 3481; 1932 Code Section 3481; Civ. C. ‘22 Section 2030; Civ. C. ‘12 Section 1144; Civ. C. ‘02 Section 828; G. S. 650; R. S. 711; 1816 (6) 27; 1880 (17) 502.

Library References

Sheriffs and Constables 3.

Westlaw Topic No. 353.

C.J.S. Sheriffs and Constables Sections 3 to 4.

**SECTION 23‑11‑30.** Bond.

 The sheriffs of the several counties, before receiving their commissions, shall enter into bonds to be executed by them and any number of sureties, not exceeding twelve nor (except as provided in Section 8‑3‑90) less than two, to be approved by a majority of the governing body of the county in the sum of ten thousand dollars, and every sheriff shall procure other satisfactory security when duly required. Such bond shall be filed in the office of the State Treasurer, duly executed and approved, within thirty days from the time the sheriff‑elect receives notice that the election is declared.

HISTORY: 1962 Code Section 53‑54; 1952 Code Section 53‑54; 1942 Code Sections 3478, 3479; 1932 Code Sections 3478, 3479; Civ. C. ‘22 Sections 2027, 2028; Civ. C. ‘12 Sections 1141, 1142; Civ. C. ‘02 Sections 825, 826; G. S. 647, 648; R. S. 708, 709; 1839 (11) 37; 1868 (14) 19; 1875 (16) 4; 1878 (16) 518; (17) 366, 681; 1897 (22) 441; 1903 (24) 29; 1905 (24) 902; 1909 (26) 38; 1919 (31) 75; 1927 (35) 227, 304; 1932 (37) 1118; 1933 (38) 256; 1936 (39) 1390; 1937 (40) 375; 1941 (42) 127.

Library References

Sheriffs and Constables 3.

Westlaw Topic No. 353.

C.J.S. Sheriffs and Constables Sections 3 to 4.

NOTES OF DECISIONS

In general 1

1. In general

The bond is joint and several. Cohen v. Maryland Cas. Co. of Baltimore, Md. (D.C.S.C. 1925) 4 F.2d 564.

In a suit against either principal or surety, the other is not an indispensable party. Cohen v. Maryland Cas. Co. of Baltimore, Md. (D.C.S.C. 1925) 4 F.2d 564.

**SECTION 23‑11‑40.** Vacancies in office.

 (A) If any vacancy occurs in the office of sheriff in any county of this State less than one year prior to the next general election for county sheriffs, the Governor may appoint some suitable person who must be an elector of the county and who, upon qualifying, according to law, is entitled to enter upon and hold the office until a sheriff is elected and qualifies in the election and is subject to all the duties and liabilities incident to the officer during the term of his service in the office.

 (B) If any vacancy occurs in the office more than one year prior to the next general election for county sheriffs, the Governor shall appoint some suitable person as provided in subsection (A) until a special election is held to elect a sheriff to hold the office until a sheriff is elected and qualifies in the next general election for county sheriffs.

 (C) If any vacancy occurs in the office at any time and is created by suspension by the Governor upon any sheriff’s indictment, the Governor shall appoint some suitable person, as provided for in subsection (A), to hold the office until the suspended sheriff is acquitted, or the indictment is otherwise disposed of, or until a sheriff is elected and qualifies in the next general election for county sheriffs, whichever event occurs first.

 (D) The chief deputy or second‑in‑command of the sheriff’s office shall act as sheriff until the vacancy is filled, except in the case when a vacancy occurs as a result of an indictment, where the vacancy will be filled as provided in Section 23‑11‑50. While acting as sheriff, the chief deputy or second‑in‑command is subject to the duties and liabilities incident to the office of sheriff.

HISTORY: 1962 Code Section 53‑56; 1952 Code Section 53‑56; 1942 Code Section 3474; 1932 Code Section 3474; Civ. C. ‘22 Section 2023; Civ. C. ‘12 Section 1137; Civ. C. ‘02 Section 821; G. S. 643; R. S. 704; 1870 (14) 374; 1877 (16) 232; 1878 (16) 507, 716; 1936 (39) 1541; 1986 Act No. 384, Section 1; 1987 Act No. 52, Section 1; 1989 Act No. 51, Section 1.

CROSS REFERENCES

Appointments by the Governor to fill vacancies in county offices, see Sections 1‑3‑220 and 4‑11‑20.

Library References

Sheriffs and Constables 12.

Westlaw Topic No. 353.

C.J.S. Sheriffs and Constables Sections 25 to 27.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Coroners Section 6, Vacancy in the Office of Sheriff.

Attorney General’s Opinions

For a sheriff who has resigned following his indictment and there is more than one year prior to the next sheriff’s election, subsections (B) and (D) of Section 23‑11‑40 control; the chief deputy or second‑in‑command acts until the vacancy is filled, and since the vacancy occurs more than one year prior to the next general election for county sheriffs, the Governor would appoint a suitable person until a special election is held. S.C. Op.Atty.Gen. (May 3, 2010) 2010 WL 2320799.

NOTES OF DECISIONS

In general 1

1. In general

Applied in Jackson v. White (S.C. 1950) 218 S.C. 311, 62 S.E.2d 776.

Under this section and what is now Section 23‑11‑10, it was the definite intention of the General Assembly that an appointee of the Governor to fill a vacancy in the office of sheriff would be entitled to hold the office until the next general election “for county sheriffs.” Privette v. Grinnell (S.C. 1939) 191 S.C. 376, 4 S.E.2d 305. Public Employment 184; Sheriffs And Constables 5

The phrase “next general election” in what is now Section 1‑3‑220, as applied to the office of sheriff for Darlington County, is merely definitized by the additional words, “for county sheriffs,” in this section. Privette v. Grinnell (S.C. 1939) 191 S.C. 376, 4 S.E.2d 305.

**SECTION 23‑11‑50.** Coroner shall act as sheriff during vacancy.

 The coroner, during the continuance of any such vacancy occurring as a result of the indictment of the sheriff and until the office is filled by appointment or election, shall assume the office, discharge its duties, incur its liabilities and be entitled to its fees and emoluments. He shall, for such purpose, take charge of the books and papers of the office and occupy the apartment allowed to the sheriff for transacting the business of his office.

HISTORY: 1962 Code Section 53‑58; 1952 Code Section 53‑58; 1942 Code Section 3475; 1932 Code Section 3475; Civ. C. ‘22 Section 2024; Civ. C. ‘12 Section 1138; Civ. C. ‘02 Section 822; G. S. 644; R. S. 705; 1839 (11) 78; 1989 Act No. 51, Section 3.

CROSS REFERENCES

Chief deputy or second‑in‑command of sheriff’s office to act as sheriff except where vacancy is result of sheriff’s indictment, see Section 23‑11‑40.

Library References

Coroners 8.

Sheriffs and Constables 12.

Westlaw Topic Nos. 100, 353.

C.J.S. Coroners and Medical Examiners Sections 8 to 9.

C.J.S. Sheriffs and Constables Sections 25 to 27.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Coroners Section 6, Vacancy in the Office of Sheriff.

NOTES OF DECISIONS

In general 1

1. In general

Stated in Reeves v. City of Easley (S.C. 1932) 167 S.C. 231, 166 S.E. 120.

**SECTION 23‑11‑110.** Qualifications.

 (A) All sheriffs in this State must have the following qualifications:

 (1) be a citizen of the United States;

 (2) be a resident of the county in which he seeks the office of sheriff for at least one year immediately preceding the date of the election for sheriff;

 (3) be a registered voter;

 (4) have attained the age of at least twenty‑one years prior to the date of his qualifying for election to the office;

 (5) have:

 (a) obtained a high school diploma, its recognized equivalent in educational training as established by the State Department of Education, and have at least five years experience as a certified law enforcement officer; or

 (b) obtained a two‑year associate degree and three years experience as a certified law enforcement officer; or

 (c) obtained a four‑year baccalaureate degree and one years experience as a certified law enforcement officer; or

 (d) served as a summary court judge for at least ten years.

 For purposes of this section, a “certified law enforcement officer” is a person who has been issued a certificate as a law enforcement officer pursuant to Section 23‑23‑10.

 (6) have not been convicted of or pled guilty to a violation of Section 56‑1‑460 or 56‑5‑2930, or both, within the past ten years or a felony in this State or another state; and

 (7) be fingerprinted and have the State Law Enforcement Division make a search of local, state, and federal fingerprint files for any criminal record. Fingerprints are to be taken under the direction of any law enforcement agency and must be made available to SLED no later than one hundred thirty days prior to the general election. The results of the records search are to be filed with the county executive committee of the person’s political party. A person seeking nomination by petition must file the records search with the county election commission in the county of his residence.

 (B)(1) A person offering his candidacy for the office of sheriff, shall file a sworn affidavit, no later than the close of filing, with the county executive committee of the person’s political party. The county executive committee of any political party with whom a person has filed his affidavit must file a copy of the affidavit with the appropriate county election commission by noon on the tenth day following the deadline for filing affidavits by candidates. If the tenth day falls on Saturday, Sunday, or a holiday, the affidavits must be filed by noon the following day. A person seeking nomination by petition must file a sworn affidavit with the county election commission in the county of his residence.

 (2) The affidavit must contain the following information:

 (a) the date and place of the person’s birth;

 (b) the date the person graduated from high school or the date the person obtained the recognized equivalent of a high school diploma;

 (c) the date the person received any associate or baccalaureate degrees when applicable;

 (d) the number of years’ experience the person has had as a certified law enforcement officer when applicable;

 (e) the number of years the person has served as a summary court judge when applicable; and

 (f) an affirmation that the person meets all of the qualification requirements of subsection (A).

 (C) Every newly‑elected sheriff in his first term is required to complete a training session to be determined pursuant to Chapter 23, Title 23 to be conducted by the Criminal Justice Academy or an otherwise approved academy or as may be selected by the South Carolina Sheriffs’ Association. This training must be completed during the first calendar year of the first term of the newly‑elected sheriff’s term of office. A newly‑elected sheriff who is unable to attend this training course when offered because of emergency or extenuating circumstances, within one year from the date the disability or cause terminates, shall complete the standard basic course of instruction required of newly‑elected sheriffs. A newly‑elected sheriff who does not fulfill the obligations of this subsection is subject to suspension by the Governor until the sheriff completes the course of instruction.

 (D)(1) After December 31, 1988, no person is eligible to hold the office of sheriff unless he attends a minimum of twenty hours’ training annually as may be selected by the South Carolina Sheriffs’ Association.

 (2) The basis for the minimum annual requirement of in‑service training is the calendar year. A sheriff who satisfactorily completes the basic course of training in accordance with the provisions of this section after April first in any calendar year is excused from the minimum annual training requirement for the calendar year during which the basic course is completed.

 (3) A waiver of the requirement of minimum annual in‑service training may be granted by the board of directors of the South Carolina Sheriffs’ Association, at its discretion, upon the presentation of evidence by a sheriff that he was unable to complete the training due to emergency or extenuating circumstances considered sufficient by the board.

 (4) A sheriff who fails to complete the minimum annual in‑service training required under this section may be suspended from office, without pay, by the Governor for a period of ninety days. The Governor may continue to suspend a sheriff until he completes the annual minimum in‑service training required in this section. The Governor shall appoint, at the time of the sheriff’s suspension, a suitable person to perform as acting sheriff during the period of suspension.

 (E) A sheriff holding office on the effective date of this section is exempt from the provisions in this section except for the provisions of subsection (D) of this section.

HISTORY: 1988 Act No. 646, Section 1; 1993 Act No. 19, Section 1; 1996 Act No. 362, Sections 2, 3; 1996 Act No. 459, Sections 40, 41; 2008 Act No. 335, Sections 5, 17, eff June 16, 2008.

Code Commissioner’s Note

At the direction of the Code Commissioner, the reference to Section 23‑10‑60 in the last sentence of subsection (A)(5) was changed to Section 23‑23‑10.

Effect of Amendment

The 2008 amendment, in subsection (A), in the final undesignated paragraph, substituted “Section 23‑23‑60” for “Section 23‑6‑400(D)(1)”; and, in subsection (C), in the first sentence substituted “Chapter 23” for “Chapter 6”.

Library References

Sheriffs and Constables 3.

Westlaw Topic No. 353.

C.J.S. Sheriffs and Constables Sections 3 to 4.

Attorney General’s Opinions

A reserve police officer would not be considered a certified law enforcement officer for purposes of Section 23‑11‑110 so as to enable that individual to be elected sheriff. S.C. Op.Atty.Gen. (Jan. 27, 2010) 2010 WL 440996.