CHAPTER 3

State Superintendent of Education

**SECTION 59‑3‑10.** Election, bond and compensation of State Superintendent of Education.

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

HISTORY: 1962 Code Section 21‑21; 1952 Code Section 21‑21; 1942 Code Section 5272; 1932 Code Section 5272; Civ. C. ‘22 Section 2532; Civ. C. ‘12 Section 1698; Civ. C. ‘02 Section 1174; 1896 (22) 150; 1901 (23) 750; 1919 (31) 4; 1924 (33) 1182; 1948 (45) 1716; 1969 (56) 444; 1973 (58) 623.

CROSS REFERENCES

Constitutional provisions concerning State Superintendent of Education, see SC Const, Art 11, Section 2.

Oath and bond of clerks, etc., in the office of the State Superintendent of Education, see Section 8‑11‑20.

Specific amounts of compensation, see Section 1‑1‑1210.

Superintendent an ex officio member of State Child Fatality Advisory Committee, see Section 63‑11‑1930.

LIBRARY REFERENCES

Schools 47.

Westlaw Key Number Search: 345k47.

C.J.S. Schools and School Districts Sections 81 to 92, 174.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Constitutional Law Section 27, Other Executive Department Offices‑Constitutional Origin.

S.C. Jur. Public Officers and Public Employees Section 24, Bond.

NOTES OF DECISIONS

In general 1

1. In general

A permanent continuing statute fixing the compensation of a public officer is a valid appropriation for the salaries provided in such statute. State ex rel. McLeod v. Mills (S.C. 1971) 256 S.C. 21, 180 S.E.2d 638.

The General Appropriation Act, 1970 Act No. 984 [1970 (56) 2085], suspended the permanent statute fixing the salaries of the constitutional officers until July 1, 1971, but did not repeal the permanent statute either expressly or by implication. State ex rel. McLeod v. Mills (S.C. 1971) 256 S.C. 21, 180 S.E.2d 638.

Cited in Brice v. McDow (S.C. 1921) 116 S.C. 324, 108 S.E. 84.

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

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

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

LIBRARY REFERENCES

Schools 47.

Westlaw Key Number Search: 345k47.

C.J.S. Schools and School Districts Sections 81 to 92, 174.

**SECTION 59‑3‑30.** General duties.

 The State Superintendent of Education shall:

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

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

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

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

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

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

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

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

CROSS REFERENCES

Requirements for teacher education and certification regulations, see S.C. Code of Regulations R. 43‑50 et seq.

Superintendent an ex officio member of State Child Fatality Advisory Committee, see Section 63‑11‑1930.

Federal Aspects

Programs for elementary and secondary school students, allotments, see 42 U.S.C.A. Section 12524.

Public Service Act, programs for elementary and secondary school students, assistance to States, Territories, and Indian Tribes, see 42 U.S.C.A. Section 2523.

LIBRARY REFERENCES

Schools 47.

Westlaw Key Number Search: 345k47.

C.J.S. Schools and School Districts Sections 81 to 92, 174.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Constitutional Law Section 27, Other Executive Department Offices‑Constitutional Origin.

Attorney General’s Opinions

The primary responsibility to organize and staff the Department of Education is vested in the State Superintendent of Education, subject to the authority of the State Board of Education to prescribe policies, rules and regulations for the government of the State school system. 1965‑66 Op Atty Gen, No 2210, p 355.

Reorganization statute transferring Educational Finance Commission and State School Book Commission to State Department of Education vests all personnel control in State Superintendnet of Education. 1965‑66 Op Atty Gen, No 2127, p 246.

Item (6) is constitutional. Statute requiring the Superintendent of Education to carry out policies and procedures of State Board of Education is constitutional. 1965‑66 Op Atty Gen, No 2048, p 129.

Selection of personnel in the State Department of Education is vested solely in State Superintendent of Education and the State Board of Education is not authorized to confirm or reject personnel selections in State Department of Education. 1965‑66 Op Atty Gen, No 2003, p 64.

NOTES OF DECISIONS

In general 1

1. In general

Quoted in Duncan v Heyward (1906) 74 SC 561, 54 SE 760. Owens v Heyward (1907) 78 SC 227, 58 SE 1095.

The State Superintendent of Education is directed to supervise and manage all public school funds provided by state and federal governments, and therefore was a proper defendant in a suit seeking injunctive relief from alleged segregation of schools. Stanley v. Darlington County School Dist., 1995, 879 F.Supp. 1341, reversed in part 84 F.3d 707.

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

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

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

LIBRARY REFERENCES

Schools 47.

Westlaw Key Number Search: 345k47.

C.J.S. Schools and School Districts Sections 81 to 92, 174.

**SECTIONS 59‑3‑50 to 59‑3‑70.** Repealed by 2004 Act No. 195, Section 2, eff January 1, 2005.

Editor’s Note

Former Section 59‑3‑50 was entitled “Statistical reports required by State Superintendent” and was derived from 1962 Code Section 21‑25; 1952 Code Section 21‑25; 1942 Code Section 5386; 1932 Code Section 5434; Civ. C. ‘22 Section 2699; Civ. C. ‘12 Section 1811; Civ. C. ‘02 Section 1243; 1896 (22) 172.

Former Section 59‑3‑60 was entitled “Report to General Assembly” and was derived from 1962 Code Section 21‑26; 1952 Code Section 21‑26; 1942 Code Section 5274; 1932 Code Section 5274; Civ. C. ‘22 Section 2534; Civ. C. ‘12 Section 1700; Civ. C. ‘02 Section 1176; 1896 (22) 150.

Former Section 59‑3‑70 was entitled “Consolidated county superintendents’ reports forwarded to General Assembly” and was derived from 1962 Code Section 21‑27; 1952 Code Section 21‑27; 1942 Code Section 2125; 1932 Code Section 2125; Civ. C. ‘22 Section 86; Civ. C. ‘12 Section 76; Civ. C. ‘02 Section 73; G. S. 49; R. S. 79; 1868 (14) 23.

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

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

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

Attorney General’s Opinions

The State Department of Education shall apportion day care funding among the qualifying school districts subject to the practical limitations of the total amount appropriated from year to year by the General Assembly; The established day care programs would be subject to the division of the total amounts of funds for all day care programs provided these existent programs continued to meet State Department of Education qualifications. 1979 Op Atty Gen, No 79‑13, p 24.

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

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

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

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Constitutional Law Section 27, Other Executive Department Offices‑Constitutional Origin.

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

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

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

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

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

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

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

Editor’s Note

2009 Act No.68 Section 2 provides as follows:

“The General Assembly finds that:

“(1) Owing to a devastating upheaval in world financial markets, the United States is experiencing restricted access to credit, closures of numerous business concerns, and high levels of unemployment across the nation. In response, the United States Congress has made provisions for a variety of strategies intended to stimulate economic activity in The American Recovery and Reinvestment Act of 2009 (ARRA). Among the strategies implemented by ARRA are various innovative financing programs for local governments.

“(2) Traditionally, most financing undertaken by local governments is exempt from federal income tax. In order to stimulate local building activity and, further, to ameliorate the impact of a significant present weakness in the market for tax‑exempt securities, ARRA, through a change in federal tax law, provides for the issuance by local school districts of a new type of obligation, the Qualified School Construction Bond (QSCB). It is the intent of Congress that QSCB obligations will be issued with an interest rate at or near to zero. In exchange for forgoing interest, the holder of a QSCB obligation will receive a credit against federal income tax intended to provide tax benefits equivalent to the forgone interest payments. The proceeds of QSCB obligations only may be used to defray the cost of the construction, rehabilitation, or repair of a public school facility or for the acquisition of land on which a facility is to be constructed.

“(3) ARRA authorizes the issuance of eleven billion dollars of QSCB obligations in each of calendar years 2009 and 2010. Allocations will be made to the states in proportion to the respective numbers of children in each state who have attained age five but not age eighteen for the most recent fiscal year ending before the calendar year. South Carolina has been allotted one hundred and thirty one million dollars under ARRA in 2009 plus special allocations for large districts. Forty percent of the total national allocation amount is being allocated to one hundred large school districts and up to twenty‑five additional school districts selected by the Secretary of the United States Department of Education. School districts of Charleston County and Greenville County are receiving direct allocations from the Secretary of the United States Department of Education.

“(4) ARRA does not specify any method or criteria by which a state must allocate its share of QSCB issuance authority to its school districts. Accordingly, it is necessary for the General Assembly to direct the allocation of this issuance authority. The General Assembly has determined in this act to provide for the allocation of sixty percent of the State’s QSCB issuance authority, not including the amount allocated to school districts of Greenville and Charleston Counties, to school districts having the lowest capital financing resources, measured in terms of assessed value per pupil, not to exceed a maximum of twenty million dollars per school district, and forty percent of the State’s QSCB issuance authority to school districts having an ability to expeditiously issue bonds demonstrated through a high credit rating and timely start and completion of a project, not to exceed ten million dollars per school district. Any remaining QSCB allocations shall be awarded on a pro rata basis to school districts that originally requested more than the maximum amount in a QSCB allocation. By allocating QSCB issuance authority to such school districts, a portion of the critical facilities needs of these districts may be addressed, subject to Article X, Section 15 of the South Carolina Constitution, 1895.

“(5) Because the public market for tax‑credit obligations is presently underdeveloped and may require several years or more to become a robust substitute for the tax‑exempt market of prior years, it is also necessary to make appropriate provisions for the marketing of QSCB obligations.”

2009 Act No. 68 Section 6 provides as follows:

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

Attorney General’s Opinions

It best to allocate remaining Qualified School Construction Bond funds pro rata based on the amount each district requested. S.C. Op.Atty.Gen. (March 17, 2010) 2010 WL 1370092.