CHAPTER 69

School Funds Generally

ARTICLE 1

Holding of Certain Funds

**SECTION 59‑69‑10.** State Treasurer may invest certain fund received from United States Government.

 The State Treasurer may invest the fund received by him pursuant to an act entitled “An Act to Authorize the State Treasurer to Receive from the United States Government a Certain Fund and to Hold the Same Subject to the Uses Declared by an Act of Congress,” approved February 20, 1907, as amended by an act approved February 25, 1908, in bonds or stocks of the State, in loans secured by like bonds or stock of the State or in bonds of any county, school district or municipality within the State and shall hold the same subject to the trust and uses in said act of Congress designated, and the State Treasurer may, in making such investments, pay the market value for bonds, whether the same be above par or not.

HISTORY: 1962 Code Section 21‑901; 1952 Code Section 21‑901; 1942 Code Section 5393; 1932 Code Section 5279; Civ. C. ‘22 Section 2539; 1914 (28) 742; 1917 (30) 340.

LIBRARY REFERENCES

Schools 18.

Westlaw Key Number Search: 345k18.

C.J.S. Schools and School Districts Sections 11 to 12.

**SECTION 59‑69‑20.** State Treasurer shall hold certain property and moneys for educational purposes.

 The State Treasurer shall take and hold in trust for the State any grant or devise of lands and any gift or bequest of money or other personal property made to him for educational purposes, all gifts to the State when the purpose is not designated, all escheated property, the net assets or funds of all estates or copartnerships in the hands of the courts of the State when there have been no claimants for the same within the last seventy years and other money that came into the State Treasury by reason of the twelfth section of an act entitled “An Act to Provide a Mode of Distribution of the Moneys as Collected as Direct Tax from the Citizens of this State by the United States, and Turned Over in Trust to the State of South Carolina,” approved December 24, 1891 (Acts 1891, p. 1067), together with such other means as the General Assembly may provide. For faithful management of all property so received the State Treasurer shall be responsible upon his bond to the State as for other funds received by him in his official capacity.

HISTORY: 1962 Code Section 21‑902; 1952 Code Section 21‑902; 1942 Code Section 5392; 1932 Code Section 5278; Civ. C. ‘22 Section 2538; Civ. C. ‘12 Section 1702; Civ. C. ‘02 Section 1178; 1896 (22) 150; 1917 (30) 384; 1942 (42) 1444.

CROSS REFERENCES

General powers of school trustees, see Section 59‑19‑90.

LIBRARY REFERENCES

Public Lands 51.

Westlaw Key Number Search: 317k51.

C.J.S. Public Lands Sections 76 to 79, 82 to 83.

**SECTION 59‑69‑30.** Investment of such fund.

 The State Treasurer shall from time to time invest in bonds of this State or of the United States or in bonds of any county, school district or municipality within the State all such money in the name of the State as a permanent State school fund and shall pay out the income derived therefrom to the counties of the State as the same may be apportioned among the counties by the State Board of Education. But no disposition shall be made of any property, grant, devise, gift or bequest inconsistent with the purposes, conditions or terms thereof.

HISTORY: 1962 Code Section 21‑903; 1952 Code Section 21‑903; 1942 Code Section 5392; 1932 Code Section 5278; Civ. C. ‘22 Section 2538; Civ. C. ‘12 Section 1702; Civ. C. ‘02 Section 1178; 1896 (22) 150; 1917 (30) 384; 1942 (42) 1444.

CROSS REFERENCES

General powers of school trustees, see Section 59‑19‑90.

LIBRARY REFERENCES

Schools 18.

Westlaw Key Number Search: 345k18.

C.J.S. Schools and School Districts Sections 11 to 12.

**SECTION 59‑69‑40.** Funds given to State Superintendent for educational purposes.

 The State Superintendent of Education shall take and hold in trust for the State any grant or devise of lands and any gift or bequest of money or other personal property made to him for educational purposes and he shall pay into the State Treasury, for safekeeping and investment, all moneys and incomes from property so received. The State Treasurer shall, from time to time, invest all such moneys in the name of the State and shall pay to the State Superintendent of Education, on the warrant of the Comptroller General, the income or principal thereof as he may, from time to time, require; provided, that no disposition shall be made of any grant, devise, gift or bequest inconsistent with the conditions or terms thereof. For all such property the State Treasurer shall be responsible on his bond as for other funds received by him in his official capacity.

HISTORY: 1962 Code Section 21‑904; 1952 Code Section 21‑904; 1942 Code Section 3185; 1932 Code Section 3185; Civ. C. ‘22 Section 879; Civ. C. ‘12 Section 800; Civ. C. ‘02 Section 723; G. S. 583; R. S. 641; 1878 (16) 575.

LIBRARY REFERENCES

Schools 18.

Westlaw Key Number Search: 345k18.

C.J.S. Schools and School Districts Sections 11 to 12.

ARTICLE 3

Reserve Fund

**SECTION 59‑69‑110.** Authorization for creation of reserve fund to place schools on cash basis.

 In any county in this State in which the schools have not funds sufficient to pay all claims in cash the county board of education may, at its discretion, direct the county superintendent of education to set aside from the school funds of the county, or any of the school districts, an amount annually not in excess of ten per cent of such funds, for so many years as may be necessary to create a sufficient fund to put the schools of such county or any of the school districts on a cash basis.

HISTORY: 1962 Code Section 21‑941; 1952 Code Section 21‑941; 1942 Code Section 5372; 1932 Code Section 5428; Civ. C. ‘22 Section 2693; Civ. C. ‘12 Section 1807; 1902 (24) 1019; 1931 (37) 364.

LIBRARY REFERENCES

Schools 17.

Westlaw Key Number Search: 345k17.

C.J.S. Schools and School Districts Section 10.

**SECTION 59‑69‑120.** Use of reserve fund.

 Whenever any such reserve fund reaches an amount sufficient to put the county or school district, as the case may be, on a cash basis, the fund may be used for said purpose. And in each year during the time necessary to create such reserve fund, the county superintendent of education shall use the fund accumulated as a loan, without interest, to pay claims held by teachers to whom pay certificates were originally issued, the funds so used to be replaced annually from taxes collected for school purposes.

HISTORY: 1962 Code Section 21‑943; 1952 Code Section 21‑943; 1942 Code Section 5373; 1932 Code Section 5429; Civ. C. ‘22 Section 2694; Civ. C. ‘12 Section 1808; 1902 (23) 1020.

LIBRARY REFERENCES

Schools 17.

Westlaw Key Number Search: 345k17.

C.J.S. Schools and School Districts Section 10.

ARTICLE 5

Claims Against School Funds

**SECTION 59‑69‑210.** Prerequisites to payment of claims.

 Every claim which is chargeable against the fund raised for the support of the free public schools of the State, except such as is otherwise provided for by law, must be signed by at least a majority of the board of trustees of the school district against which the claim is chargeable, and the correctness and legality of the same shall be sworn to and subscribed by the person presenting such claim before it shall be approved by the person or persons authorized by law to give such approval. The oath required by this section may be administered by any person authorized to administer oaths either within or without the State. School trustees and county superintendents of education shall, free of charge, administer oaths to persons presenting claims under this section.

HISTORY: 1962 Code Section 21‑951; 1952 Code Section 21‑951; 1942 Code Section 5355; 1932 Code Section 5381; Civ. C. ‘22 Section 2627; Civ. C. ‘12 Section 1758; Civ. C. ‘02 Section 1216; 1896 (22) 165; 1940 (41) 1843; 1943 (43) 2; 1946 (44) 1383.

LIBRARY REFERENCES

Schools 112.

Westlaw Key Number Search: 345k112.

C.J.S. Schools and School Districts Sections 669 to 673, 679 to 681.

**SECTION 59‑69‑215.** Treasurer of county to disburse funds to school district.

 Notwithstanding the provisions of this article, the treasurer of any county shall disburse to any school district within his county any funds which he may have on hand available for use in the operation of the school district; provided, the governing body of the school district requests disbursement to the school district funds as they become available and; provided, further, that the governing body of the county concurs in the request made by the district. Upon receipt of the school district funds, it may maintain its own bank account for the purpose of making disbursement for the payment of expenses approved by the governing body of the district. Funds received by the school district from the county treasurer which are not needed for immediate disbursement may be invested by the district in interest bearing accounts or certificates of deposit issued by banking institutions or savings and loan associations licensed to do business in this State or in securities issued by or guaranteed by the United States Government. Upon establishing the disbursement method from the county treasurer to the district, the disbursement by the county treasurer shall continue to the district as funds become available unless the procedure is rescinded by action of the governing body of the district or the county governing body.

HISTORY: 1982 Act No. 417, Section 2.

LIBRARY REFERENCES

Schools 19(1).

Westlaw Key Number Search: 345k19(1).

C.J.S. Schools and School Districts Sections 7, 13.

Attorney General’s Opinions

When school district funds are disbursed by the county treasurer to the school district as provided by Section 59‑69‑215, the school district, thereafter, has the duty and responsibility to expend and account for the same. When school funds are disbursed under Section 59‑69‑215, the school district must annually advise the county auditor of the tax revenue needed to satisfy bond debt. The auditor is to levy the tax therefor and the treasurer is to collect the same. 1986 Op Atty Gen, No. 86‑93, p 284.

Funds resulting from School Bond Act are special funds which are not to be disbursed to school district under Section 59‑69‑215. Proceeds from such bonds and sinking fund associated with bonds are required to be maintained by county treasurer pursuant to Sections 59‑71‑150, 59‑71‑180 and related sections. To extent that opinions prior to Anderson County School District 1 v. Anderson County Board of Education (1988) 296 SC 260, 371 SE2d 807 and OAG 91‑23 have reached different conclusion, such earlier opinions are modified to conform to views expressed in this opinion. 1993 Op Atty Gen No. 93‑37.

County treasurer may not establish account in South Carolina Pooled Investment Fund in name of treasurer and by direct deposit invest state funds distributed to school district with school district having authority to withdraw funds. School district funds may be distributed to school district as provided by Section 59‑69‑215. 1991 Op Atty Gen, No. 91‑23 p 72.

NOTES OF DECISIONS

In general 1

1. In general

Since the applicability of Section 59‑69‑215 to the disbursement of capital improvement funds is questionable, the school warrant procedure outlined in Section 59‑69‑220 is the relevant procedure to be used in the disbursement of capital improvement funds. Thus, a county board of education did not have discretionary authority to disapprove the disbursal of capital improvement funds to a school district which were remitted by the State to the county treasurer. Anderson County School Dist. 1 v. Anderson County Bd. of Educ. (S.C.App. 1988) 296 S.C. 260, 371 S.E.2d 807, certiorari dismissed 300 S.C. 493, 388 S.E.2d 815.

**SECTION 59‑69‑220.** Approval of warrants by county superintendent of education or his agent.

 No school warrants issued by any board of school trustees against any public school fund shall be paid by the county treasurer or other officer having the custody of such fund until the warrant has been approved by the county superintendent of education of the county in which such warrant is drawn or by such person in the office of such county superintendent as may be designated by him in writing, provided the person designated shall have furnished good and sufficient bond payable to the county for the faithful performance of his duties in the sum of one thousand dollars or in the sum of the bond of the county superintendent of education, whichever is higher.

HISTORY: 1962 Code Section 21‑954; 1952 Code Section 21‑954; 1942 Code Section 5356; 1932 Code Section 5382; Civ. C. ‘22 Section 2628; Civ. C. ‘12 Section 1759; 1909 (26) 132; 1946 (44) 1563; 1947 (45) 280.

LIBRARY REFERENCES

Schools 95(2).

Westlaw Key Number Search: 345k95(2).

C.J.S. Schools and School Districts Section 513.

Attorney General’s Opinions

Funds resulting from School Bond Act are special funds which are not to be disbursed to school district under Section 59‑69‑215. Proceeds from such bonds and sinking fund associated with bonds are required to be maintained by county treasurer pursuant to Sections 59‑71‑150, 59‑71‑180 and related sections. To extent that opinions prior to Anderson County School District 1 v. Anderson County Board of Education (1988) 296 SC 260, 371 SE2d 807 and OAG 91‑23 have reached different conclusion, such earlier opinions are modified to conform to views expressed in this opinion. 1993 Op Atty Gen No. 93‑37.

The State Board of Education, the County Superintendent of Education, and the District Board of Trustees, must exercise discretion in passing upon application for use of state and district funds for repairs and improvements on property that is leased by a school district. 1978 Op Atty Gen, No 78‑34, p 55.

Warrants issued by board of trustees must be countersigned by county superintendent of education. Op Atty Gen April 5, 1963.

NOTES OF DECISIONS

In general 1

1. In general

A county superintendent has the authority to disapprove a warrant issued by school trustees which is unauthorized by law and ultra vires. However, if the school trustees act within the scope of their authority in approving a contract, the superintendent does not have discretion to refuse to execute the school warrant if funds to pay the warrant are available. Anderson County School Dist. 1 v. Anderson County Bd. of Educ. (S.C.App. 1988) 296 S.C. 260, 371 S.E.2d 807, certiorari dismissed 300 S.C. 493, 388 S.E.2d 815. Education 254

Since the applicability of Section 59‑69‑215 to the disbursement of capital improvement funds is questionable, the school warrant procedure outlined in Section 59‑69‑220 is the relevant procedure to be used in the disbursement of capital improvement funds. Thus, a county board of education did not have discretionary authority to disapprove the disbursal of capital improvement funds to a school district which were remitted by the State to the county treasurer. Anderson County School Dist. 1 v. Anderson County Bd. of Educ. (S.C.App. 1988) 296 S.C. 260, 371 S.E.2d 807, certiorari dismissed 300 S.C. 493, 388 S.E.2d 815.

County superintendent of education has more than a ministerial duty to perform when he approves a school warrant. Paslay v. Brooks (S.C. 1941) 198 S.C. 345, 17 S.E.2d 865.

Certain school trustees issued a warrant to an attorney for his legal services in helping them become trustees. The county superintendent refusing to pay, it was held that the power to pay a claim such as this carries with it the discretion to disapprove. Paslay v. Brooks (S.C. 1941) 198 S.C. 345, 17 S.E.2d 865.

Where teacher had a valid contract of employment, the approval of pay warrants is not discretionary under this section [Code 1962 Section 21‑954] as long as there are sufficient funds to pay them, and mandamus can be granted to compel approval. Pressley v. Nunnery (S.C. 1933) 169 S.C. 509, 169 S.E. 413.

County superintendent has no discretion to refuse approval of warrant for high school teacher’s salary consistent with this section [Code 1962 Section 21‑954] and for which funds are available. Walpole v. Wall (S.C. 1929) 153 S.C. 106, 149 S.E. 760. Mandamus 101

**SECTION 59‑69‑230.** Payments from school funds.

 All moneys disbursed by any county treasurer on account of school funds or taxes shall be paid on the order of the board of school trustees, countersigned by the county superintendent of education, or as otherwise directed by law.

HISTORY: 1962 Code Section 21‑957; 1952 Code Section 21‑957; 1942 Code Section 5368; 1932 Code Section 5397; Civ. C. ‘22 Section 2641; Civ. C. ‘12 Section 1773; Civ. C. ‘02 Section 1224; 1896 (22) 165; 1917 (30) 342.

LIBRARY REFERENCES

Schools 112.

Westlaw Key Number Search: 345k112.

C.J.S. Schools and School Districts Sections 669 to 673, 679 to 681.

Attorney General’s Opinions

Funds resulting from School Bond Act are special funds which are not to be disbursed to school district under Section 59‑69‑215. Proceeds from such bonds and sinking fund associated with bonds are required to be maintained by county treasurer pursuant to Sections 59‑71‑150, 59‑71‑180 and related sections. To extent that opinions prior to Anderson County School District 1 v. Anderson County Board of Education (1988) 296 SC 260, 371 SE2d 807 and OAG 91‑23 have reached different conclusion, such earlier opinions are modified to conform to views expressed in this opinion. 1993 Op Atty Gen No. 93‑37.

County treasurer may not establish account in South Carolina Pooled Investment Fund in name of treasurer and by direct deposit invest state funds distributed to school district with school district having authority to withdraw funds. School district funds may be distributed to school district as provided by Section 59‑69‑215. 1991 Op Atty Gen, No. 91‑23 p 72.

A monthly deposit to the account of the Greenville County School District is made by the county treasurer. The amount of the deposit is for current expenses and the refunds otherwise are to be held by the treasurer. 1979 Op Atty Gen, No 79‑128, p 204.

It is not a valid expenditure for the Board of Education of Aiken County to donate funds for the construction of a building for the South Carolina School Board Association. 1976‑77 Op Atty Gen, No 77‑39, p 41.

School funds accruing to a school district from rental of school property should be deposited with and accounted for by the county treasurer. 1971‑72 Op Atty Gen, No 3396, p 260.

Warrants issued by board of trustees must be countersigned by county superintendent of education. Op Atty Gen April 5, 1963.

NOTES OF DECISIONS

In general 1

1. In general

For construction of former section containing similar provisions, see Ex parte Florence School (S.C. 1895) 43 S.C. 11, 20 S.E. 794.

**SECTION 59‑69‑240.** Treasurer required to report monthly to superintendent of education.

 Each county treasurer shall report monthly, on the fifteenth day of each month, to the county superintendent of education of his county the amount of collections and disbursements made by him for the month on account of school tax and all other school funds. It shall be a misdemeanor on the part of any county treasurer to neglect, fail or refuse to make such report and, on conviction thereof, he shall pay a fine of not more than five hundred dollars to be used for school purposes in his county.

HISTORY: 1962 Code Section 21‑959; 1952 Code Section 21‑959; 1942 Code Section 5367; 1932 Code Section 5396; Civ. C. ‘22 Section 2640; Civ. C. ‘12 Section 1772; Civ. C. ‘02 Section 1223; 1896 (22) 165.

**SECTION 59‑69‑250.** Treasurer required to carry forward unexpended balances; report.

 The county treasurer shall carry forward all sums in his hands collected for any previous year or years for school purposes and unexpended to the next fiscal year and credit the same to the school districts respectively, for which they were apportioned. He shall report such sums to the county superintendent of education.

HISTORY: 1962 Code Section 21‑960; 1952 Code Section 21‑960; 1942 Code Section 5369; 1932 Code Section 5399; Civ. C. ‘22 Section 2643; Civ. C. ‘12 Section 1775; Civ. C. ‘02 Section 1226; 1896 (22) 165.

Attorney General’s Opinions

Richland County Council, pursuant to S.C. Code Ann. Section 4‑9‑70 (1976) may consider surplus or unappropriated school funds from prior fiscal years when establishing a school tax millage for Richland County School District No. 2. 1978 Op Atty Gen, No 78‑52, p 77.

**SECTION 59‑69‑260.** Officials shall not acquire interest in claims or contracts.

 It is unlawful for any county treasurer, county auditor, member of a county board of education, or school trustee to buy, discount, or share, directly or indirectly, or be in any way interested in any teacher’s pay certificate or other order on a school fund, except those as are payable to him for his own services. If any of the above officers violate the provisions of this section, he is guilty of a misdemeanor and upon conviction must be fined not less than one hundred dollars nor more than five hundred dollars to be used for school purposes in his county or must be imprisoned not less than three months nor more than twelve months, or both. He shall also forfeit the amount of the claim or of his interest in the claim.

 The provisions of this section do not prohibit a county board of education member, a school trustee, or a business with which he is associated from providing services or selling products to the district of which he is a board member or trustee as long as all these transactions are in accordance with the provisions of Chapter 13 of Title 8.

HISTORY: 1962 Code Section 21‑961; 1952 Code Section 21‑961; 1942 Code Section 5370; 1932 Code Sections 1555, 5400; Civ. C. ‘22 Section 2644; Civ. C. ‘12 Section 1776; Civ. C. ‘02 Section 1227; Cr. C. ‘22 Section 503; Cr. C. ‘12 Section 575; Cr. C. ‘02 Section 418; R. S. 2561; 1896 (22) 150; 1900 (23) 366; 1986 Act No. 393, Section 1.

LIBRARY REFERENCES

Counties 90, 91.

Schools 48(6).

Westlaw Key Number Searches: 104k90; 104k91; 345k48(6).

C.J.S. Counties Sections 129, 132.

C.J.S. Schools and School Districts Sections 100 to 101, 103 to 106.

Attorney General’s Opinions

A member of the Clarendon County Board of Education, who bids on a contract for landscaping being let by a Clarendon County School District, would probably be in violation of Section 59‑69‑260. 1983 Op Atty Gen, No. 83‑5, p. 15.

A school trustee, pursuant to Section 59‑69‑260 of the Code of Laws of South Carolina, (1976), is not permitted to participate in the purchase of school property. 1979 Op Atty Gen, No 79‑51, p 67.

An individual, once elected to a school board, cannot make any contract, express or implied, with the school district of which he is a trustee. He may continue to solicit business from the general public, including school teachers in the district. 1975‑76 Op Atty Gen, No 4266, p 81.

A school trustee is prohibited by present State law from selling realty to the school district of which he is a trustee. 1970‑71 Op Atty Gen, No 3146, p 106.

A member of a county board of education may not receive funds made available under Title I of Public Law 89‑10 for administering dental care to students attending school within the county school system. 1965‑66 Op Atty Gen, No 2182, p 315.

It would be unlawful for a member of the Richland County board of education to sell the products of his employer, a produce company, to the school lunch program in Richland County. 1965‑66 Op Atty Gen, No 2023, p 88.

Doing of business by a storekeeper who is a school trustee with a class of school children spending its own funds does not violate this section [Code 1962 Section 21‑961]. 1964‑65 Op Atty Gen, No 1945, p 250.

This section [Code 1962 Section 21‑961] prohibits purchases made by a school trustee on an open account from a trustee’s retail hardware and building materials establishment. 1963‑64 Op Atty Gen, No 1699, p 158.

Member of county board of education cannot contract with board for construction of school buildings. Op Atty Gen, Feb. 7, 1963.

**SECTION 59‑69‑270.** Borrowing to pay school claims.

 The county treasurer and the county supervisor or other managing officer of the several counties in this State shall, upon the application of the county boards of education of the respective counties, borrow from time to time during any fiscal year such sums of money as may be necessary to pay the school claims of such counties, not to exceed seventy‑five per cent of the amount reported by the county auditors for schools for such fiscal year. In addition thereto they may borrow not exceeding fifty per cent of the estimated receipts from the State for school aid or any other school fund that may be estimated to be paid to such county, at a rate of interest not exceeding the rate of six per cent per annum. They may pledge the taxes to be collected for that purpose or the funds to be paid therefor as security for the payment of the money so borrowed and the interest thereon. All money borrowed shall be held and paid out by the county treasurer as school funds and without extra commission.

HISTORY: 1962 Code Section 21‑962; 1952 Code Section 21‑962; 1942 Code Section 5371; 1932 Code Section 5427; Civ. C. ‘22 Section 2692; Civ. C. ‘12 Section 1806; 1902 (23) 1019; 1914 (28) 9; 1929 (36) 224; 1942 (42) 1454.

CROSS REFERENCES

Negotiable promissory notes in tax anticipation borrowing, see Section 11‑1‑30.

LIBRARY REFERENCES

Counties 153.

Westlaw Key Number Search: 104k153.

C.J.S. Counties Section 186.

Attorney General’s Opinions

Discussion of whether Section 59‑71‑155 applies to a Tax Anticipation Note. S.C. Op.Atty.Gen. (August 8, 2014) 2014 WL 4165337.