

# South Carolina Legislature

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## South Carolina Code of Laws Unannotated

### Title 4 - Counties

#### CHAPTER 19

#### Fire Protection Services

#### **SECTION 4-19-10.** Powers of governing body generally.

The governing body of each county has the following powers:

- (a) To establish, operate, and maintain a system of fire protection.
- (b) To designate, subject to the provisions of Section 4-19-20, the areas of the county where fire protection service may be furnished by the county under the provisions of this chapter (referred to in this chapter as service areas); provided, however, that these service areas shall exclude those areas where fire protection is then being furnished by some other political subdivision unless an agreement be entered into between the county and such other political subdivision for the joint exercise of fire protection powers within the service area of such political subdivision and the sharing of the costs thereof.
- (c) To buy such fire-fighting equipment as the governing body deems necessary for the purpose of controlling fires within the service areas.
- (d) To select sites or places within the service areas where the fire-fighting equipment must be kept.
- (e) To employ all necessary fire protection personnel and fix their compensation.
- (f) To employ and supervise the training of firemen to insure that the equipment is utilized for the best interest of all service areas within the county.
- (g) To be responsible for the purchase, acquisition, upkeep, maintenance, and repairs of all fire-fighting equipment and fire stations and the sites of the stations.
- (h) To promulgate such relations as it may deem proper and necessary to insure that the equipment is being used to the best advantage of the county and to carry out the provisions of this chapter.
- (i) To construct the necessary buildings to house the equipment authorized by this chapter, and all fire stations necessary to provide an adequate fire protection system.
- (j) To place into effect and to revise, whenever it so wishes or may be required, a schedule of rates and charges for the furnishing of fire protection services within each service area.
- (k) To appoint officers, agents, employees, and servants, to prescribe the duties of such, to fix their compensation, and to determine if and to what extent they must be bonded for the faithful performance of their duties.
- (l) To effect the levy and collection of ad valorem taxes without limit as to rate or amount upon all taxable property in each service area where fire protection services are furnished to effect the payment of principal and interest of all bonds issued pursuant to this chapter or required for the maintenance and operation of the fire protection system.
- (m) To exercise any and all other powers necessary to operating and maintaining a system of fire protection.

HISTORY: 1962 Code Section 14-700.201; 1974 (58) 2681; Re-enacted 1984 Act No. 408, Section 2.

#### Editor's Note

1992 Act No. 519 Section 1, effective thirty days after September 3, 1992, provides as follows:

"SECTION 1. As incident to the adoption of this amendment to Act 408 of the Acts and Joint Resolutions of the General Assembly of the State of South Carolina, the General Assembly finds that Act 408 of 1984, which was adopted in order to reverse the holding of the Supreme Court of South Carolina in the case of *City of Myrtle Beach v. Richardson*, 280 S.C. 167, 311 S.E.2d 922 (1984), is a useful and needed vehicle for the provision of fire protection services to residents and businesses in the unincorporated areas of the State. The utility of Act 408 of 1984 has been limited by the decision of the Supreme Court in the case of *Carolina Power & Light Co. v. Darlington County*, S.C., 405 S.E.2d 823 (1991), in which the court narrowly construed the purpose of a limitations period contained in Act 408. The court's ruling has left the creation of fire protection districts pursuant to Act 408 subject to challenge for an unlimited period of time. The General Assembly adopts this act to clarify the procedure to be followed by the governing bodies of counties in the establishment of fire protection districts, to provide that the limitations period contained in Act 408 applies to all challenges to the establishment of a taxing district for fire protection created under the act, and to provide for the validity of fire protection districts established on the effective date of this act pursuant to Act 408 of 1984."

#### **SECTION 4-19-15.** Extension of fire protection, in area where service offered on individual contractual basis, to landowners not served by other political subdivision.

In those areas of the county where fire protection service is offered on an individual contractual basis, a county governing body may extend fire protection to those landowners within the service area who are not served by a contract with another political subdivision.

HISTORY: 1993 Act No. 146, Section 2, eff June 14, 1993.

#### Editor's Note

1993 Act No. 146, Section 1, effective June 14, 1993, provides as follows:

"SECTION 1. The General Assembly finds that the practice of offering fire protection services to residents by contract is leaving parts of the State without comprehensive service area coverage available to all citizens. The effect of these arrangements has resulted in overlapping and ineffective provision of fire protection service. The purpose of this act is to ensure that all persons within an area are provided the same level of fire protection service."

#### **SECTION 4-19-20.** Prerequisites to creation of fire protection district; ad valorem taxes within district.

Before the establishment of a fire protection district pursuant to this chapter, the governing body must comply with the following requirements:

- (1) The governing body shall, by resolution, order a public hearing to be held on the question of the establishment of the district.
- (2) Notice of the hearing must be published once a week for three successive weeks in a newspaper of general circulation in the county and the notice must state:
- (a) the time and place of the public hearing, provided that the date of the public hearing must not be less than sixteen days following the first publication of the notice;
  - (b) a description of the area to be included within the proposed fire protection district;
  - (c) whether there must be levied within the proposed fire protection district ad valorem taxes for the operation and maintenance of it;
  - (d) whether there must be imposed rates and charges within the proposed fire protection district for the operation and maintenance of it; and
  - (e) whether the governing body is empowered to issue general obligation bonds of the county, payable from an ad valorem tax levied within the district, for the purpose of providing fire protection service in it.
- (3) The hearing must be conducted publicly and both proponents and opponents of the proposed action must be given full opportunity to be heard.
- (4) Following the hearing, the governing body, by ordinance, may establish the fire protection district and, in order to provide for the operation and maintenance of it, authorize the levy of an annual ad valorem tax on all taxable property within the fire protection district or the imposition of rates and charges for fire protection services within the fire protection district, or both. The governing body shall specifically find by ordinance that the establishment of the fire protection district satisfies the requirements and conditions set forth in Section 4-19-10 and in this section. The governing body also shall provide for the administration of the fire protection district. The fire protection district may be operated as an administrative division of the county, or the governing body may appoint a commission consisting of three to seven members and provide for their duties and terms of office.
- (5) The governing body shall give notice of its action by publishing it once a week for two successive weeks in a newspaper of general circulation within the county, which shall state:
- (a) the boundaries of the fire protection district;
  - (b) whether there must be levied within the proposed fire protection district ad valorem taxes for the operation and maintenance of it;
  - (c) whether there must be imposed rates and charges within the proposed fire protection district for the operation and maintenance of it; and
  - (d) whether the governing body is empowered to issue general obligation bonds of the county, payable from an ad valorem tax levied within the district for the purpose of providing fire protection service in it.
- (6) A person affected by the action of the governing body taken in accordance with this section, by action de novo instituted in the court of common pleas for the county, within twenty days following the last publication of the notice prescribed by item (5) of this section, but not afterwards, may challenge the action of the governing body.

HISTORY: 1962 Code Section 14-700.202; 1974 (58) 2681; 1984 Act No. 408, Section 2; 1992 Act No. 519, Section 3, eff thirty days after September 3, 1992.

#### Editor's Note

1992 Act No. 519 Section 1, effective thirty days after September 3, 1992, provides as follows:

"SECTION 1. As incident to the adoption of this amendment to Act 408 of the Acts and Joint Resolutions of the General Assembly of the State of South Carolina, the General Assembly finds that Act 408 of 1984, which was adopted in order to reverse the holding of the Supreme Court of South Carolina in the case of *City of Myrtle Beach v. Richardson*, 280 S.C. 167, 311 S.E.2d 922 (1984), is a useful and needed vehicle for the provision of fire protection services to residents and businesses in the unincorporated areas of the State. The utility of Act 408 of 1984 has been limited by the decision of the Supreme Court in the case of *Carolina Power & Light Co. v. Darlington County*, S.C., 405 S.E.2d 823 (1991), in which the court narrowly construed the purpose of a limitations period contained in Act 408. The court's ruling has left the creation of fire protection districts pursuant to Act 408 subject to challenge for an unlimited period of time. The General Assembly adopts this act to clarify the procedure to be followed by the governing bodies of counties in the establishment of fire protection districts, to provide that the limitations period contained in Act 408 applies to all challenges to the establishment of a taxing district for fire protection created under the act, and to provide for the validity of fire protection districts established on the effective date of this act pursuant to Act 408 of 1984."

1992 Act No. 519 Section 4, effective thirty days after September 3, 1992, provides as follows:

"SECTION 4. If any section, paragraph, clause, or provision of this act is held invalid or unenforceable under any circumstances, the holding does not affect the validity or enforceability of this act as a whole or of any other article, section, paragraph, clause, or provision of this act."

#### Effect of Amendment

The 1992 amendment revised the procedure for the establishment of a fire protection district and limit challenges to the establishment of a district.

#### **SECTION 4-19-25.** Creation of fire protection districts validated.

(A) All fire protection districts created pursuant to the provisions of Act 408 of 1984 or its predecessor as of the effective date of this section are declared to be validly created and constituted according to the terms of the resolution or ordinance pursuant to which created.

(B) The provisions of subsection (A) do not affect actions filed before the effective date of this section.

HISTORY: 1992 Act No. 519, Section 2, eff thirty days after September 3, 1992.

#### Editor's Note

1992 Act No. 519 Section 1, effective thirty days after September 3, 1992, provides as follows:

"SECTION 1. As incident to the adoption of this amendment to Act 408 of the Acts and Joint Resolutions of the General Assembly of the State of South Carolina, the General Assembly finds that Act 408 of 1984, which was adopted in order to reverse the holding of the Supreme Court of South Carolina in the case of *City of Myrtle Beach v. Richardson*, 280 S.C. 167, 311 S.E.2d 922 (1984), is a useful and needed vehicle for the provision of fire protection services to residents and businesses in the unincorporated areas of the State. The utility of Act 408 of 1984 has been limited by the decision of the Supreme Court in the case of *Carolina Power & Light Co. v. Darlington County*, S.C., 405 S.E.2d 823 (1991), in which the court narrowly construed the purpose of a limitations period contained in Act 408. The court's ruling has left the creation of fire protection districts pursuant to Act 408 subject to challenge for an unlimited period of time. The General Assembly adopts this act to clarify the procedure to be followed by the governing bodies of counties in the establishment of fire protection districts, to provide that the limitations period contained in Act 408 applies to all challenges to the establishment of a taxing district for fire protection created under the act, and to provide for the validity of fire protection districts established on the effective date of this act pursuant to Act 408 of 1984."

1992 Act No. 519 Section 4, effective thirty days after September 3, 1992, provides as follows:

"SECTION 4. If any section, paragraph, clause, or provision of this act is held invalid or unenforceable under any circumstances, the holding does not affect the validity or enforceability of this act as a whole or of any other article, section, paragraph, clause, or provision of this act."

**SECTION 4-19-30.** Conditions precedent to issuance of bonds.

As a condition precedent to the issuance of any bonds under this chapter, the governing body shall provide for either:

- (a) The levy and collection of an annual ad valorem tax within the service areas where fire protection services will be furnished from the proceeds of the bonds to be issued which will be sufficient to provide for the payment of the principal and interest on the bonds to be issued; or
- (b) The imposition of rates and charges for the furnishing of fire protection services within each service area where fire protection services will be furnished from the proceeds of the bonds to be issued which will be sufficient to provide for the payment of the principal and interest on the bonds to be issued.

The finding by the governing body that one of these conditions precedent to the issuance of bonds hereunder has been met shall be conclusive.

HISTORY: 1962 Code Section 14-700.203; 1974 (58) 2681; 1984 Act No. 408, Section 2.

**SECTION 4-19-40.** No further action required for issuance of bonds.

No election is prescribed as a condition precedent to the issuance of bonds pursuant to this chapter, and no action other than that prescribed in this chapter need be taken to effect the issuance of the bonds herein authorized, nor is the governing body required to obtain the approval of any public agency to any action taken pursuant to the authorizations of this chapter, nor is the publication of any ordinance or resolution providing for the issuance of any bonds under this chapter required.

HISTORY: 1962 Code Section 14-700.218; 1974 (58) 2681; 1984 Act No. 408, Section 2.

**SECTION 4-19-50.** Power to issue bonds.

In order to provide a means by which a county may raise monies to establish, maintain, and operate a fire protection system as provided by this chapter and to purchase the necessary fire-fighting equipment and to construct, acquire, and build the necessary fire stations and acquire sites for the stations, the governing body of any county is empowered to issue as a single issue, or from time to time as several separate issues, general obligation bonds of the county, without the necessity of holding an election, to such extent as, on the occasion of the issuance of any such bonds, is permitted by the constitutional debt limitation applicable to the county.

HISTORY: 1962 Code Section 14-700.204; 1974 (58) 2681; 1984 Act No. 408, Section 2.

**SECTION 4-19-60.** Maturity of bonds.

All bonds issued pursuant to this chapter shall mature in such annual series or installments as the governing body shall prescribe, except that the first maturing bonds shall mature within three years from the date of the issue, and no bond shall mature later than thirty years from the date of issue.

HISTORY: 1962 Code Section 14-700.205; 1974 (58) 2681; 1984 Act No. 408, Section 2.

**SECTION 4-19-70.** Redemption of bonds.

Any bond issued pursuant to this chapter may be issued with a provision permitting its redemption prior to its stated maturity, at par and accrued interest, plus such redemption premium as may be prescribed by the governing body, but no bond is redeemable prior to its stated maturity unless it contains a statement to that effect. In the proceedings authorizing the issuance of such bonds, provision must be made specifying the manner of call and the notice thereof that must be given as to bonds redeemable prior to their stated maturities.

HISTORY: 1962 Code Section 14-700.206; 1974 (58) 2681; 1984 Act No. 408, Section 2.

**SECTION 4-19-80.** Form and negotiability of bonds; registration.

The bonds issued pursuant to this chapter must be in the form of negotiable coupon bonds, payable to bearer, but may be issued with the privilege to any holder of having them registered as to principal on the books of the county treasurer upon such conditions as the governing body may prescribe. Except when registered, all bonds issued pursuant to this chapter shall have all attributes of negotiable instruments under the law merchant and the Uniform Commercial Code. Provided, however, that any bonds issued under this chapter and purchased by the United States of America, or any agency or department thereof, may be in fully registered form as to both principal and interest and registered on the books of the county treasurer.

HISTORY: 1962 Code Section 14-700.207; 1974 (58) 2681; 1984 Act No. 408, Section 2.

**SECTION 4-19-90.** Place of payment.

The bonds issued pursuant to this chapter must be made payable at such place or places, within or without the State, as the governing body shall provide.

HISTORY: 1962 Code Section 14-700.208; 1974 (58) 2681; 1984 Act No. 408, Section 2.

**SECTION 4-19-100.** Interest on bonds.

Bonds issued pursuant to this chapter shall bear interest at a rate or rates determined by the governing body, not in excess of that permitted by the general law of the State prescribing limitations upon the rate of interest borne by obligations of the State and its political subdivisions, which interest may be payable at such intervals as the governing body may prescribe.

HISTORY: 1962 Code Section 14-700.209; 1974 (58) 2681; 1984 Act No. 408, Section 2.

**SECTION 4-19-110.** Execution of bonds.

The bonds and the coupons to be attached to the bonds must be in such form and denomination and be executed in such manner as the governing body shall prescribe.

HISTORY: 1962 Code Section 14-700.210; 1974 (58) 2681; 1984 Act No. 408, Section 2.

**SECTION 4-19-120.** Advertisement and sale of bonds.

Bonds issued pursuant to this chapter must be sold at a price of not less than par and accrued interest to the date of their respective deliveries. They must be sold after public advertisement of their sale in a newspaper of general circulation in South Carolina, or in a financial journal published in the city of New York. Such published notice shall appear not less than seven days prior to the occasion set for opening bids; provided, however, that any bonds issued pursuant to the provisions of this chapter may be sold at private sale to the United States of America or any agency or department thereof.

HISTORY: 1962 Code Section 14-700.211; 1974 (58) 2681; 1984 Act No. 408, Section 2.

**SECTION 4-19-130.** Additional security for payment of bonds.

The governing body may provide in the ordinance or resolution, which makes provision for the issuance of any bonds under this chapter, that such bonds may be additionally secured by all or any portion, designated in the ordinance or resolution, of the revenues to be derived from the rates and charges for fire protection services.

HISTORY: 1962 Code Section 14-700.212; 1974 (58) 2681; 1984 Act No. 408, Section 2.

**SECTION 4-19-140.** Payment of principal and interest on bonds; creation of sinking fund; sources of funds.

For the payment of the principal of and interest on all bonds issued pursuant to this chapter, as they respectively mature, and for the creation of the sinking fund as may be necessary for the fund, the full faith, credit, and taxing power of the county must be irrevocably pledged, and there must be levied annually by the county auditor and collected by the county treasurer a tax sufficient to pay the principal of and interest on the bonds as they respectively mature and to create such sinking fund as may be necessary; provided, however, that in the event that such revenues from the ad valorem tax levied in the service areas under the provisions of item (1) of Section 4-19-10 or from the rates and charges for fire protection services must be available for the payment of debt service on such bonds (whether or not such revenues have been pledged for that purpose), and must be delivered to the county treasurer for the payment of such principal and interest and for no other purpose, prior to the occasion when the county auditor fixes the annual tax levy, and annual ad valorem tax to be levied for the payment of the principal and interest on such bonds may be reduced in each year by the amount of such revenues derived from such taxes levied in the service areas or from such rates and charges which are actually in the hands of the county treasurer at the time the tax for the year is required to be levied; provided, further, that bonds issued for a service area subject to the imposition of taxes must be primarily the obligation of the service area and for the payment of principal and interest thereof, as the same mature, there must be levied and collected service charges, assessments, or ad valorem taxes upon all taxable property in the service area, and resort to the tax levy required by the preceding paragraph of this section must be made only in the event that funds from the sources required by this paragraph prove insufficient to meet the payment of the principal and interest.

HISTORY: 1962 Code Section 14-700.213; 1974 (58) 2681; 1984 Act No. 408, Section 2.

**SECTION 4-19-150.** Bonds exempt from taxation.

The principal of and interest on bonds issued pursuant to this chapter shall have the tax-exempt status prescribed by Section 12-1-60.

HISTORY: 1962 Code Section 14-700.214; 1974 (58) 2681; 1984 Act No. 408, Section 2.

**SECTION 4-19-160.** Disposition of proceeds from sale of bonds; use of balance in bond account.

The proceeds derived from the sale of any bonds issued pursuant to this chapter must be paid to the county treasurer, to be deposited in a separate bond account fund, and must be expended from time to time and made use of as follows:

- (a) Any accrued interest must be applied to the payment of the first installment of interest to become due to such bonds.
- (b) Any premium must be applied to the payment of the first installment of principal of such bonds.
- (c) The remaining proceeds must be expended, upon the warrant or order of the governing body, for the following purposes:
  - (1) To defray the costs of issuing the bonds authorized by this chapter;
  - (2) To pay interest on such bonds for a period of not exceeding two years; and
  - (3) To provide for fire protection services for the county.

(d) If, after the final completion of any fire protection system, the governing body shall certify to the county treasurer that any remaining balance in the bond account is no longer needed for its fire protection program, then the balance must be held by the treasurer and used to effect the retirement of bonds then outstanding, which have been issued pursuant to this chapter. Provided, however, that the purchaser of the bonds is not responsible for the proper application of the proceeds to the purposes for which the bonds are issued.

HISTORY: 1962 Code Section 14-700.215; 1974 (58) 2681; 1984 Act No. 408, Section 2.

**SECTION 4-19-170.** Powers to be additional and may be exercised at regular or special meeting.

The powers and authorizations conferred upon the governing body are in addition to all other powers and authorizations previously vested in the governing body and may be availed of pursuant to action taken at one regular or special meeting of the governing body.

HISTORY: 1962 Code Section 14-700.216; 1974 (58) 2681; 1984 Act No. 408, Section 2.

**SECTION 4-19-180.** No time limit set for issuance of bonds.

The authorizations granted by this chapter shall remain of full force and effect until they are rescinded by subsequent enactment and no time limit is set for the issuance of bonds pursuant to this chapter.

HISTORY: 1962 Code Section 14-700.217; 1974 (58) 2681; 1984 Act No. 408, Section 2.