

**GENERAL SCHOOL
LAW OF SOUTH
CAROLINA, 1919**

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General School Law of South Carolina, 1919 by S. M. Wolfe

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S. M. WOLFE

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UNIV. OF
CALIFORNIA

GENERAL SCHOOL LAW

OF

SOUTH CAROLINA

1919

Published by

J. E. SWEARINGEN

State Superintendent of Education
in accordance with
Section 1699 of the Code

Compiled and Edited upon the request of the
State Superintendent of Education by

S. M. WOLFE

Attorney General

Rules and Regulations of the State Board
of Education also included

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THE R. L. BRYAN COMPANY
COLUMBIA, S. C.
1919

TO THE
SCHOOL

LEADER
1919

FOREWORD

This edition of the school law includes the general school code of the State. It does not contain the numerous special Acts affecting local communities in the various school districts. These Acts are scattered through the statutes from 1868 to 1919.

Many districts, organized and operated under special local laws, exercise properly various and varying privileges. Trustees, teachers, patrons, and citizens of such special legislative districts should consult the separate, independent Acts governing their territory and would usually find it helpful to consult a lawyer before changing in any way the procedure required by the general school law.

This mass of local school legislation is too voluminous to be printed in pamphlet form. A simplification and codification of the school law, both general and local, into one comprehensive, progressive, forward-looking code would strengthen our educational system.

The assistance of the Attorney General in compiling and preparing this pamphlet is gratefully acknowledged. The rulings of the Attorney General's office guide and govern the State Superintendent in the performance of his duties, and this co-operation is invaluable in the work of the State Superintendent's office. It is a pleasure to record here my obligation to Hon. S. M. Wolfe and his assistants.

J. E. SWEARINGEN,
State Superintendent of Education.

Columbia, S. C., May 22, 1919.

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Compiled by the office of the Attorney General

Constitutional Provisions

ARTICLE XI.

EDUCATION.

Section 1. The supervision of public instruction shall be vested in a State Superintendent of Education, who shall be elected for the term of two years by the qualified electors of the State, in such manner and at such time as the other State officers are elected; his powers, duties and compensation shall be defined by the General Assembly.

§ 2. There shall be a State Board of Education, composed of the Governor, the State Superintendent of Education, and not exceeding seven persons to be appointed by the Governor every four years, of which board the Governor shall be Chairman, and the State Superintendent of Education, Secretary. This board shall have the regulation of examination of teachers applying for certificates of qualification, and shall award all scholarships, and have such other powers and duties as may be determined by law. The traveling expenses of the persons to be appointed shall be provided for by the General Assembly.

§ 3. The General Assembly shall make provision for the election or appointment of all other necessary school officers, and shall define their qualifications, powers, duties, compensation and terms of office.

§ 4. The salaries of the State and county school officers and compensation of County Treasurers for collecting and disbursing school

eral Assembly shall define "enrollment." Not less than three trustees for each school district shall be selected from the qualified voters and taxpayers therein, in such manner and for such terms as the General Assembly may determine, except in cases of special school districts now existing, where the provisions of law now governing the same shall remain until changed by the General Assembly:² *Provided*, The manner of the selection of said trustees need not be uniform throughout the State. There shall be assessed on all taxable polls in the State between the ages of twenty-one and sixty years (excepting Confederate soldiers above the ages of fifty) an annual tax of one dollar on each poll, the proceeds of which tax shall be expended for school purposes in the several school districts in which it is collected. Whenever during the three next ensuing fiscal years the tax levied by the said County Boards of Commissioners or similar officers and the poll tax shall not yield an amount equal to three dollars per capita of the number of children enrolled in the public schools of each county for the scholastic year ending the thirty-first of October, in the year eighteen hundred and ninety-five, as it appears in the report of the State Superintendent of Education for said scholastic year, the Comptroller General shall, for the aforesaid three next ensuing fiscal years, on the first day of each of said years, levy such an annual tax on the taxable property of the State as he may determine to be necessary to make up such deficiency, to be collected as other State taxes, and apportion the same among the counties of the State in proportion to the respective deficiencies therein. The sum so apportioned shall be paid by the State Treasurer to the County Treasurers of the respective counties, in the proportion to the deficiencies therein, on the warrant of the Comptroller General, and shall be apportioned among the school districts of the counties, and disbursed as other school funds; and from and after the thirty-first day of December in the year eighteen hundred and ninety-eight the General Assembly shall cause to be levied annually on all the taxable property of the State such a tax, in addition to the said tax levied by the said County Boards of Commissioners or similar officers, and poll tax above provided, as may be necessary to keep the schools open throughout the State for such length of time in each scholastic year as the General Assembly may prescribe; and said tax shall be apportioned among the counties in

2. The General Assembly has no power to disburse public school funds by Joint Resolution, except through the trustees

of the district. *Asbill v. Martin*, 84 S. C. 271, 66 S. E. 297, distinguishing *Dickson v. Bureckmeyer*, 67 S. C. 584.

proportion to the deficiencies therein and disbursed as other school funds. Any school district may by authority of the General Assembly levy an additional tax for the support of its schools.³

§ 7. Separate schools shall be provided for children of the white and colored races, and no child of either race shall ever be permitted to attend a school provided for children of the other race.⁴

§ 8. The General Assembly may provide for the maintenance of Clemson Agricultural College, the University of South Carolina, and the Winthrop Normal and Industrial College, a branch thereof, as now established by law, and may create scholarships therein; the proceeds realized from the land script given by the Act of Congress passed the second day of July, in the year eighteen hundred and sixty-two, for the support of an agricultural college, and any lands or funds which have heretofore been or may hereafter be given or appropriated for educational purposes by the Congress of the United States, shall be applied as directed in the Acts appropriating the same: *Provided*, That the General Assembly shall, as soon as practicable, wholly separate Claffin College from Claffin University and provide for a separate corps of professors and instructors therein, representation to be given to men and women of the negro race; and it shall be the Colored Normal, Industrial, Agricultural and Mechanical College of this State.

§ 9. The property or credit of the State of South Carolina, or of any county, city, town, township, school district or other subdivision of the said State, or any public money, from whatever source derived, shall not, by gift, donation, loan, contract, appropriation, or otherwise, be used, directly or indirectly, in aid or maintenance of any college, school, hospital, orphan house, or other institution, society or organization, of whatever kind, which is wholly or in part under the direction or control of any church or of any religious or sectarian denomination, society or organization.⁵

§ 10. All gifts of every kind for educational purposes, if accepted by the General Assembly, shall be applied and used for the purpose

3. The term "levy" as the three mill tax imposes purely ministerial duties on the board, and requires that it shall take such action as will place the tax on the Auditor's books. *Dickson v. Burckmeyer*, 67 S. C. 534.

As to the apportionment of the tax, see *Capers v. Derham*, 54 S. C. 349; *Murph v. Landrum*, 76 S. C. 82.

4. See *Floyd v. News and Courier*, 71 S. C. 118.

5. See Attorney General's opinion as to what are not violations of this section. In the case of the Epworth Orphanage, September 27, 1902; and also Reports and Resolutions, 1905, Vol. II, p. 27.

designated by the giver, unless the same be in conflict with the provisions of this Constitution.

§ 11. All gifts to the State where 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 where there have been no claimants for the same within the last seventy years, and other money coming into the treasury of the State by reason of the twelfth section of an Act entitled "An Act to provide a mode of distribution of the moneys as direct tax from the citizens of this State by the United States in trust to the State of South Carolina," approved the twenty-fourth day of December, in the year of eighteen hundred and ninety-one, together with such other means as the General Assembly may provide, shall be securely invested as the State School Fund, and the annual income thereof shall be apportioned by the General Assembly for the purpose of maintaining the public schools.

§ 12. All the net income to be derived by the State from the sale or license for the sale of spirituous, malt, vinous and intoxicating liquors and beverages, not including so much thereof as is now or may hereafter be allowed by law to go to the counties and municipal corporations of the State, shall be applied annually in aid of the supplementary taxes provided for in the sixth section of this article; and if after said application there should be a surplus, it shall be devoted to public school purposes, and apportioned as the General Assembly may determine: *Provided, however,* That the said supplementary taxes shall only be levied when the net income aforesaid from the sale or license for the sale of alcoholic liquors or beverages is not sufficient to meet and equalize the deficiencies for which the said supplementary taxes are provided.⁶

6. *Murray v. Wilson Distilling Co.*, 58 L. Ed. 742, 218 U. S. 151.
How funds must be apportioned. See

Murph v. Landrum, 76 S. C. 22; *Capers v. Derham*, 54 S. C. 350.

Note.—In addition to the above provisions of the Constitution, the article on Finance and Taxation provides: (1) That the property of all schools, colleges and institutions of learning, except where the profits of such are applied to private uses, shall be exempted from taxation. (2) That the bonded debt of any school district shall never exceed eight per centum of the assessed value of all the taxable property therein.