

1986 WL 289790 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 6, 1986

*1 R. Keith Summey
Chairman
Charleston County Election Commission
Post Office Box 71472
Charleston Heights, South Carolina 29405

Dear Mr. Summey:

By your letter of March 17, 1986, you had asked about the responsibility of the Charleston County Election Commission as to:

- (1) furnishing the voting machines outside election time?
- (2) distribution of voting machines?
- (3) allotting the use of voting machines?

It appears that your questions are basically answered by statutes, but we will also point out other considerations.

Question 1

Furnishing voting machines outside election time is governed by several statutes. By 'election time,' it is assumed that you mean a regularly scheduled general election. Section 7-13-1900, Code of Laws of South Carolina (1976), requires that if voting machines are to be used in a general or special election, the machines are also to be used for the primary elections preceding such general or special election. Thus, the Election Commission must provide voting machines for primary elections if that body provides voting machines for the ensuing general or special election.

Section 7-13-70 of the Code permits an election commission to exhibit and demonstrate voting machines, using sample ballots, for the purpose of instructing voters. Inspection of voting machines by political party representatives is provided for in Section 7-13-1750, which also specifies certain actions to be taken by the commissioners of election. Copies of these Code sections are enclosed.

Question 2

Distribution of voting machines is covered by Section 7-13-1760 of the Code; that section requires the commissioners to have the machines and other necessary equipment at the polls before the time set for opening the polls.

Custody of the voting machines when not in use is governed by Section 7-13-1680, which provides that the governing body of the county or municipality owning the machines is to have custody of the machines when they are not being used.

Question 3

Allotting the use of voting machines is covered by two statutes. Section 7-13-1660 of the Code provides that the governing body of a county or municipality may provide voting machines for use at elections, and the commissioners of election may use the voting machines at any and all general or special elections, in one or more precincts. Section 7-13-1680 further provides that voting machines may be used in such election precincts as 'officials holding the election or conducting the primary' may determine. Read with Section 7-13-1660, it may be assumed that Section 7-13-1680 refers to commissioners of election as 'officials holding the election.' Copies of these statutes are enclosed herewith, as is a copy of Opinion No. 1746, dated October 26, 1964, construing these statutes.

From a conversation with the office of the Charleston County Attorney, we understand that you may also be interested in whether a county election commission may pass along to cities, school boards, public service districts or special purpose districts the costs incurred in preparing, distributing, and storing voting machines. We are not aware of any statute which would expressly prohibit or permit such a practice.

*2 We have been advised that, in Richland County, at one time there was a charge of \$25.00 per machine for use in primaries and so forth; however, now there is no charge for use of the machines, though political parties are charged for the cost of print-outs from the machines. The Richland County Election Commission contracts with an individual to prepare the voting machines for use; when the City of Columbia uses the machines, the City contracts with that individual for preparation of the machines and pays for the print-outs and so forth. The Election Commission transports machines to the various polling places prior to an election.

In Spartanburg County, neither that commission nor the county pays for storage or transportation of voting machines, since the machines are stored at schools where voters use them. The usual charge which would be made by the Election Commission would be for school elections being held at schools which ordinarily do not store the machines; in those instances, the commission charges exactly the cost which the commission incurs for the paper and so forth, about \$10.00 per machine. This information is general in nature; for specific details about arrangements in Spartanburg or Richland counties, you may wish to check with the election Commissioners in those counties.

We hope that the enclosed statutes and information on procedures in other counties will be useful to you. Please let us know if we may assist you further.

Sincerely,

Patricia D. Petway
Assistant Attorney General

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