

1978 WL 35060 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

August 25, 1978

*1 Mr. Matthew Poliakoff
Chairman
Democrat Party of Spartanburg County
220 North Church Street
Spartandurg, SC 29304

Dear Mr. Poliakoff:

Mr. McLeod has referred your recent letter to me for reply. You have inquired if it is possible for a local election commission to decide to program a voting machine so that the candidates for U. S. Senator and Congress would appear on a separate line from other candidates of that party.

As you are aware, [Section 7-13-330 of the Code of Laws of South Carolina](#), 1976, sets out a sample paper ballot. This paper ballot shows all candidates including candidates for U. S. Senator and Representative as being on one line. Section 7-13-1360 requires the arrangement of the ballot on vote recorders to conform as closely as possible with the paper ballot arrangement. There is no similar provision regarding the vote machine, but the same rationale would be applicable.

Section 7-13-1630(1) states in part that the voting machines must provide a lever that would allow voters to vote for all the candidates of one party. [Section 7-13-330](#) and [7-13-1710](#) states that all party nominations shall be arranged on the voting machines either in columns or horizontal rows. Therefore, it is clearly the intention of the Code that all of the candidates of one party be set out on one line or column and that a procedure exist whereby the voter can pull a lever or make a mark that will enable him to vote for all of the candidates of one party.

In the election for presidential electors, the voting machines can be set so that a voter can vote for all of the candidates for presidential electors of one party and a separate lever to vote for all the candidates of a party except that party's presidential electors. Section 7-13-1640. See also: Section 7-13-1340. This provision may give precedental authority for separating the offices for U. S. Senator and Representative to allow straight party voting for just these offices, but nowhere is this procedure specifically authorized by the Code. Even if this procedure would be utilized, and I strongly question if it should or could be, there would have to be a method of voting straight party for all the candidates including U. S. Senator and Representative.

Finally, if this procedure is utilized, it would constitute a change under the Voting Rights Act and would have to be submitted to the United States Department of Justice for their approval under the Voting Rights Act before it could be used in the November election.

Very truly yours,

Treva G. Ashworth
Assistant Attorney General

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