

05-5546

The State of South Carolina



Office of the Attorney General

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February 16, 1995

James F. Hendrix
Executive Director
State Election Commission
Post Office Box 5987
Columbia, South Carolina 29250

RE: Informal Opinion

Dear Mr. Hendrix:

Thank you for your letter of February 6, 1995, to Attorney General Condon, which he has referred to me for response. Referencing S. C. Code Ann. §7-13-800, you have asked whether a write-in vote cast by means of spelling a candidate's name on a keypad or touchpad of an electronic voting machine would comport with the terms of the referenced statute.

As you are aware, this Office has rendered several opinions which concluded that write-in votes must be cast in the voter's handwriting or the handwriting of someone duly authorized to assist the voter. See Ops. Att'y Gen. dated January 21, 1992 and May 6, 1986, among others. The standard of review for reversing prior opinions of this Office is to determine whether the conclusion reached therein is clearly erroneous; such a result could be reached, for example, when a legislative act in the intervening time causes the conclusion to be erroneous.

It is my understanding that the law upon which the previous opinions were based has not been amended. While we acknowledge that technology has changed since the statute was adopted, nevertheless the language of the statute has remained unchanged. Our review of the statute and the previous opinions does not compel the conclusion that the interpretation is clearly erroneous. Thus, we adhere to the conclusions reached in the previous opinions.

Mr. Hendrix
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With kindest regards, I am

Sincerely,

Patricia D. Petway

Patricia D. Petway
Assistant Attorney General