



HENRY McMASTER
ATTORNEY GENERAL

October 16, 2008

The Honorable Gilda Cobb-Hunter
Member, House of Representatives
P. O. Box 11867
Columbia, South Carolina 29211

The Honorable James E. Smith, Jr.
Member, House of Representatives
P. O. Box 11867
Columbia, South Carolina 29211

Dear Representative Cobb-Hunter and Representative Smith:

In a letter to this office you requested an opinion regarding S.C. Code Ann. § 7-13-430(A) which regulates the placement and number of emergency paper ballots available in precincts utilizing voting machines. Such provision states:

[t]here must be provided for each voting place where voting machines are not used as many ballots as are equal to one hundred ten percent of the registered qualified voters at the voting place. There must be provided for each voting place where voting machines are used a number of ballots not to exceed ten percent of the registered qualified voters at the voting place. The authority responsible for conducting an election must provide to each poll manager the appropriate number of ballots according to the provisions of this section.

Formerly, such provision stated that:

(A) There must be provided for each voting place where voting machines are not used as many ballots as are equal to one hundred ten percent of the registered qualified voters at the voting place. There must be provided for each voting place where voting machines are used as many ballots as are equal to ten percent of the registered qualified voters at the voting place. The authority responsible for

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conducting an election must provide to each poll manager the appropriate number of ballots according to the provisions of this section. (emphasis added).

Generally, when interpreting the meaning of a statute, certain basic principles must be observed. The cardinal rule of statutory interpretation is to ascertain and give effect to legislative intent. State v. Martin, 293 S.C. 46, 358 S.E.2d 697 (1987). Typically, legislative intent is determined by applying the words used by the General Assembly in their usual and ordinary significance. Martin v. Nationwide Mutual Insurance Company, 256 S.C. 577, 183 S.E.2d 451 (1971). Resort to subtle or forced construction for the purpose of limiting or expanding the operation of a statute should not be undertaken. Walton v. Walton, 282 S.C. 165, 318 S.E.2d 14 (1984). Courts must apply the clear and unambiguous terms of a statute according to their literal meaning and statutes should be given a reasonable and practical construction which is consistent with the policy and purpose expressed therein. State v. Blackmon, 304 S.C. 270, 403 S.E.2d 660 (1991); Jones v. South Carolina State Highway Department, 247 S.C. 132, 146 S.E.2d 166 (1966).

As is obvious, the recent amendment to subsection (A) deleted the requirement that in circumstances where voting machines are used, as many ballots as equal to ten percent of the voters at the polling place were to be available. Such provision now requires only that there must be provided at the polling place "a number of ballots not to exceed ten percent" of the qualified voters.

As a result of the amendment, this office cannot provide an absolute number of emergency ballots that must be available at a particular polling place. The number of emergency ballots made available is within the discretion of election officials. We can only emphasize that caution is in order and a sufficient number of emergency ballots must be made available based upon experiences of past elections at a particular polling place. Such mandate is consistent with the requirement of subsection (B) of Section 7-13-430 which states that

[w]hen a sufficient number of official ballots are not available for all qualified electors present at the polling place to vote, the managers of election without undue delay shall provide ballots made as nearly as possible in the form of the official ballot to those electors for whom official ballots are unavailable, and for all purposes of the election laws of this State these ballots are the same as official ballots. A manager of election who fails to comply with the provisions of this subsection is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars.

Therefore, election authorities must act wisely to make assurances that a sufficient number of emergency ballots are ready at the polling place as would be necessary in order to preserve the

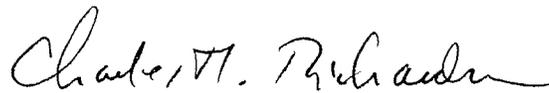
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integrity of the voting process. At no time should ballots not be available on election day and at no time should voters be turned away because of the excuse of unavailable ballots.

With kind regards, I am,

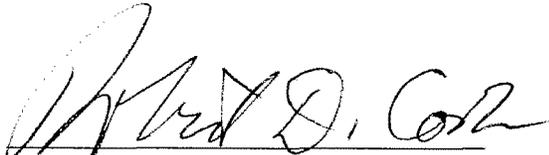
Very truly yours,

Henry McMaster
Attorney General



By: Charles H. Richardson
Senior Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook
Deputy Attorney General