

1980 WL 121221 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 13, 1980

*1 Joseph S. Mendelsohn, Esquire
Attorney at Law
Post Office Box 633
Charleston, South Carolina 29402

Dear Mr. Mendelsohn:

You have asked the opinion of this Office concerning the proposed use of a voting machine to record absentee ballots as they are received. More specifically, you state that a poll manager will record the absentee votes in the presence of bystanders from each major party after separating the ballot from the envelope to insure the secrecy of the ballot. Then the machine will be locked and sealed, the ballots will be secured in a ballot box until needed, and the machine will be opened and the votes tabulated at the close of the polls on election day.

The receipt of absentee ballots by a county election commission is governed by [§ 7-15-420, Code of Laws of South Carolina, 1976](#), which in part states:

When any ballot is received, it shall be placed in a ballot box or other place of security designated by the election commission and shall be tabulated and reported as a separate precinct when other ballots of the county are counted on election day.

The procedure set forth in your letter is not provided for by this statute or in any other provision in Title 7 of the Code. The procedure also raises additional difficulties. Although the language thereof may be subject to varying interpretations, the intent of [§ 7-15-420](#) appears to be to have absentee ballots registered and counted when the remaining county ballots are counted and not prior thereto. However, the procedure described in your letter would result in the poll managers and the poll watchers for the parties and candidates knowing the absentee votes cast for candidates in advance of the counting after the polling places close. It should be noted that [§ 7-13-1110](#) may require the presence of poll watchers in addition to those from the major political parties.

This statute obviously sought to provide a simple procedure for ensuring that absentee ballots are secured from receipt until counting. The proposed procedure substantially increases the steps in the receipt, safeguarding and tabulation of these ballots and thus the potential for mistakes, abuses and protests.

Your letter suggests that [§ 7-13-1660](#) may serve as the authority for the proposed procedure. However, the general language of this statute does not appear to be intended to override the specialized treatment mandated by [§ 7-15-420](#) for absentee ballots.

Based on the foregoing, it is the opinion that the procedure proposed for the use of a voting machine in receiving absentee ballots is not authorized by Title 7 of the Code.

Sincerely,

James M. Holly
State Attorney

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