

1973 WL 27730 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

November 20, 1973

*1 The Honorable T. Dewey Wise
State Senator
23 Broad Street
Charleston, South Carolina 29401

Dear Senator:

Thank you for your letter of November 13 inquiring as follows:

1. Is it legal for the local Board of Registration to appoint a large number of deputy registrars?

Yes. Section 23-51.1 authorizes the Boards of Registration of each county to appoint deputy members of the Board, in such numbers as may be deemed necessary. The number necessary is entirely within the discretion of the Boards of Registration.

2. What are the legal implications of appointing an equal number of these deputy registrars from the two major political parties, i.e., the Democratic and Republican Party and thereby ignoring the other recognized political parties in this State?

The appointment of deputies solely from the two major political parties can be the basis for a successful challenge to the procedure on the grounds that it discriminates against members of minority parties. It raises also the question of whether a discriminatory practice may likewise exist against those individuals who are members of no political party. As registration to vote in this State is theoretically a non-partisan procedure, the appointment of partisan registration deputies could be attacked as the adoption of a procedure which would inevitably be conducive to partisan leanings in the procurement of voters, as well as in the consideration of the voters' qualifications to register. I do not state that such attacks would be successful, but they could be plausibly urged, particularly if, as phrased in your question, only representatives of the two major political parties are designated to serve as deputies. We already have, of course, a bipartisan election commission which has served without party division, and this would seem to be precedent for the utilization of your proposal. I think it would be rendered less vulnerable by inclusion of all parties pro rata and perhaps the exclusion of party officers from appointment.

I believe also that such a procedure, if adopted, would require submission to the Department of Justice for its approval or disapproval. The practices and procedures subject to the Voting Rights Act have been extended by the decisions to cover practically any change affecting the right to register and vote in the slightest degree.

With best wishes,
Very truly yours,

Daniel R. McLeod
Attorney General

1973 WL 27730 (S.C.A.G.)