

**DE 83-17 - December 2, 1983**

**THE POLLING PLACE AND PHYSICALLY  
HANDICAPPED OR DISABLED ELECTORS**

*To: Honorable Mary Morgan, Supervisor of Elections, Collier County, Collier County Government Complex, 3301 Tamiami Trail, East, Naples, Florida 33942*

*Prepared by: Division of Elections*

This is a formal election opinion pursuant to s. 106.23(2). F.S. on essentially the following question:

May a pollworker carry a ballot and a voting machine off the polling site to enable a physically handicapped person to vote?

In your request for an opinion you seek advice as to the practice of permitting pollworkers to manually carry ballots and portable CES Votamatic Voting Machines outside the polling room for use by voters who are not able to come into the polling room to cast their votes because of physical infirmity. For a number of reasons, I am opposed to such a practice.

The polling place is synonymous with the polling room. Section 101.37, F.S. requires the arrangement of voting machines within the polling room. A polling room is not the area adjacent to the polling room, such as a sidewalk, curb or side street. For this reason, voting equipment ~~should be kept~~ and used only in the polling place.

The Election Code requires that each and every elector have physical access to the polling place. Section 101.71, F.S. requires a supervisor of elections to select polling places which "shall be accessible to the public on election day..." Section 101.715, F.S. requires that the polling place shall be accessible to the physically handicapped and elderly and mandates design standards to make the polling place usable by elderly persons and physically handicapped persons. In selecting new polling places county officials must take affirmative action to comply with the design standards of s. 101.715, F.S. Existing polling places must also comply with these standards. DE 80-40 (December 31, 1980); DE 82-4 (April 5, 1982). If the supervisor of elections determines that a polling place is inaccessible, the polling place may be relocated. Section 101.71(2), F.S. should a handicapped, elderly or any other person be physically incapable of voting at the polling place, they may qualify to vote by absentee ballot. Section 97.063, F.S.

A physically disabled person who desires to vote at the polling place may receive special assistance by two election officials or some person of his own choice even if the elector has not previously notified election officials of the need for special assistance. Section 101.051(1), F.S. clearly states: "After the elector requests the aid of two election

officials, or the person of his choice, they shall retire to the voting booth for the purpose of casting the electors vote according to the electors choice.” Thus, objective of the voter assistance provisions of the Election Code, is to allow the elector to vote at the polling place. The above-cited statutes which govern the operation of voting machines and equipment and the selection of polling places provide no authority for removing voting equipment from the polling place in order to accommodate any particular class or group of electors.

While I declined to comment about whether the act of a pollworker in physically moving a ballot and/or voting machine from the polling room violates Chapter 104, F.S., it is clear that action 104.20, F.S. prohibits an elector from removing a ballot from the polling place.

In light of the foregoing discussion, the practice of removing voting equipment from the polling room in order to accommodate any elector is without specific statutory authority in Florida law and is not advisable.

#### SUMMARY

An important objective of the Election Code is to make all polling places accessible to all electors including the physically handicapped or disabled and to provide whatever assistance is necessary to enable such electors to vote at the polling place. Removing the ballot or election equipment from the polling room to accommodate the handicapped or disabled is without statutory authority and is not advisable.