

AUG 18 1975

V9103

Ken Askew, Esquire
Harris County Attorney
Pine Mountain, Georgia 31822

Dear Mr. Askew:

This is in reference to your submission of June 18, 1975, of Act No. 179 (House Bill 1114), of the 1975 Session of the General Assembly of Georgia, which provides for the election of the Harris County Board of Education, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965. Your submission was received on June 20, 1975.

After careful consideration of your submission, the additional information you have provided, Harris County's election history and demographic characteristics, and information and comments from interested parties, we are unable to conclude, as we must under the Voting Rights Act, that implementation of the system of voting for the members of the Harris County Board of Education which encompasses residency districts and an at-large system of voting does not adversely affect minority voting rights or have a racially discriminatory effect,

Our analysis demonstrates that while the present system of selecting members of the Board of Education is by appointment, and we have been advised that two of the members of the Board presently are black, that minority candidates have not been able to become elected to any county-wide office in Harris County because of the County's system of at-large elections. The use of an at-large system under these circumstances has the discriminatory effect of diluting the ability of minority candidates to participate as members of the Board of Education. See Whitecomb v. Chavis 403 U.S. 124 (1971); White v. Regester, 412 U.S. 755 (1973).

In addition, the Supreme Court has specifically recognized and acknowledged the duty of state jurisdictions to take steps to avoid dilution of minority voting rights which may result from state action. City of Petersburg (Va) v. United States, 410 U.S. 962 (1973); City of Richmond v. United States U.S. _____ (1975), 43 L.W. 4365 (June 24, 1975). Accordingly, I must interpose an objection, on behalf of the Attorney General, to those portions of the submitted Act which provide for the holding of elections for the members of the Harris County Board of Education on an at-large basis.

The Attorney General is, however, cognizant of the legitimate County interests which Act No. 179 was intended to serve and that, in the context of other at-large elections, the Act's implementation may not adversely affect minority voting rights. Should Harris County adopt a racially neutral election system, such as district representation, the Attorney General will, if requested, re-evaluate the racial effects, if any, of implementation of the at-large provisions of Act No. 179.

Section 5 permits you to seek a declaratory judgment from the District Court for the District of Columbia that the at-large election provisions of Act No. 179 neither have the purpose nor will have the effect of abridging voting rights on account of race or color, and, of course, you continue to have this alternative.

If you have any questions or information which you wish to bring to the attention of this Department, please do not hesitate to contact me or Ms. Carmen Jones at 202-739-5128.

Sincerely,

J. Stanley Pottinger
Assistant Attorney General
Civil Rights Division