

OCT 20 1975

Honorable M. H. Greene  
Mayor, City of Crawfordville  
159 Broad Street  
Crawfordville, Georgia 30631

Dear Mayor Greene:

This is in reference to Senate Bill No. 310 of the 1975 session of the Georgia General Assembly, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965. Your submission was received on August 21, 1975.

In examining submissions under Section 5 of the Voting Rights Act, it is incumbent on the Attorney General to determine whether the submissions, either in purpose or effect result in racial discrimination in voting. Moreover, under the procedural guidelines for the administration of Section 5, the burden of proving that such discriminatory purpose or effect does not exist lies with the submitting authority. Georgia v. United States, 411 U.S. 526 (1973); City of Richmond v. United States, 43 U.S.L.W. 4865 (June 24, 1975); City of Petersburg v. United States, 354 F. Supp. 1021 (D.D.C. 1972) aff'd 410 U.S. 962 (1973). As part of this burden, the submitting authority must in "some unambiguous and recordable manner submit any legislation or regulation in question to the Attorney General with a request for his consideration ..."Allen v. State Board of Elections 393 U.S. 544, 571 (1969). The guidelines promulgated by the Attorney General require no less 28 U.S.C. 51.10.

In your letter of August 19, 1975, there was an indication that the only changes from past election practice brought about by the submitted legislation would be the use of absentee ballots and the extension of the terms of office for mayor and council from one to four years. Our review of this submission reveals, however, what appears to be other changes as well. For instance, our analysis of the former municipal charter that was in effect in Crawfordville (Georgia Laws, 1894, p. 145) along with the submitted new charter provisions show that there are newly imposed requirements that city voters must now register with the county in order to be eligible to vote in city elections and that persons must reside in Crawfordville six months before being allowed to vote in its elections. In addition, from our review and analysis of the old charter, your letter of August 19, 1975, as well as conversations with the City Clerk, Mr. J. P. Ellington, Jr., it is our understanding that, in prior elections, a plurality vote requirement was in effect. It is also our understanding that since the submitted legislation is silent as to whether a majority or a plurality vote would be required in future municipal elections, such elections would, by operation of Georgia Municipal Election Code Section 34-1407, be subject to a majority vote feature.

It is our further understanding that another important feature of the system incorporated into the new charter, the use of designated posts, in fact has been implemented in Crawfordville since 1970. However, our records do not reflect that that change in voting procedure ever was submitted to the Attorney General for administrative review or brought before the United States District Court for the District of Columbia for judicial review as required by Section 5 of the Voting Rights Act.

Given the above, we are unable to determine whether there may be other changes as well. Nor can we conclude, as we must under the Voting Rights Act, that the submitted proposed new charter under review does not have a racially discriminatory effect since we do not know with any degree of certainty what other changes may be included in or flow from it. Accordingly, as is provided for in the Section 5 guidelines, 28 C.F.R. 51.19, and consistent with the above-described burden of proof requirements, I must on behalf of the Attorney General interpose an objection to the present submission. However, upon submission of a complete account of the changes in voting practices and procedures which will flow from the new charter we will give the matter further consideration.

Of course, as provided by Section 5 you have the right to seek a declaratory judgment from the United States District Court for the District of Columbia that this submission has neither the purpose nor effect of denying or abridging the right to vote on account of race or color. However, until such a judgment is rendered by that Court, or until the objection has been withdrawn by the Attorney General, the legal effect of the objection by the Attorney General is to render the submission in question legally unenforceable. We also feel a responsibility to advise you that the designated post procedure likewise is not legally enforceable until Section 5 preclearance has been obtained.

Sincerely,

J. Stanley Pottinger  
Assistant Attorney General  
Civil Rights Division