U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

1 JUN 1984

M. Theordore Solomon, Esq.
Jones, Solomon, and Boatwright
P. O. Box 467
Alma, Georgia 31510

pre-1964

Dear Mr. Solomon:

This refers to Act No. 204, H.B. No. 243 (1963), which changes the number and method of electing members of the Bacon County, Georgia, Board of Commissioners from seven members elected by single-member districts and one at-large position to three members elected at-large from residency districts; Act No. 1177, H.B. No. 1901 (1982), which provides for a referendum election and redistricting of residency districts; Act No. 470, H.B. No. 786 (1983), which increases the number of commissioners from three to five and provides for at-large elections; and Act No. 1054, H.B. No. 1683 (1984), which increases the number of commissioners to six, changes to single-member districts for the election of commissioners and provides for a districting plan, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. We received your completed submissions on April 10, 1984.

We have considered carefully the information you have provided, as well as Census data and comments and information provided by other interested parties. At the outset, we note that, because none of these acts have received the requisite Section 5 preclearance, the last legally enforceable plan for selecting the board of commissioners in Bacon County was the eight-member plan under which seven members were elected from single-member districts and one member was elected at-large. Even though the highest black proportion of any district in that plan was 21 percent, one of the seven districts (the Douglas District) contained 56.1 percent of the county's entire population and a large majority of the county's black population. However, our analysis shows that a fairly drawn seven-member district plan likely would have contained a district with a significant black majority.

Act No. 204, which took effect on January 1, 1965, reduced the number of commissioners from eight to three and changed to at-large elections. According to our analysis, racial bloc voting would appear to exist in Bacon County elections. Since blacks represented only 13 percent of the electorate on a countywide basis, the change to at-large elections necessarily reduced their voting strength when compared to the preexisting plan, particularly when viewed in terms of the potential for blacks under a fairly drawn reapportionment. Such retrogression has the effect of denying or abridging the right to vote on account of race or color. See Beer v. United States, 425 U.S. 130 (1976).

Act No. 470 (1983), although it changes the number of positions on the board, continues the at-large method of election and, for the same reasons discussed above, likewise is retrogressive.

Under Section 5 of the Voting Rights Act, the submitting authority has the burden of showing that a submitted change has no discriminatory purpose or effect. See Georgia v. United States, 411 U.S. 526 (1973); see also the Procedures for the Administration of Section 5 (28 C.F.R. 51.39(e)). In light of the circumstances involved here, I cannot conclude, as I must under the Voting Rights Act, that that burden has been sustained with respect to the at-large election system authorized by the acts here under submission. Accordingly, on behalf of the Attorney General, I must object to the implementation of Act No. 204 (1963), Act No. 1177 (1982), and Act No. 470 (1983) insofar as they authorize or permit the use of at-large elections in Bacon County.

Of course, as provided by Section 5 of the Voting Rights Act, you have the right to seek a declaratory judgment from the United States District Court for the District of Columbia that these changes have neither the purpose nor will have the effect of denying or abridging the right to vote on account of race or color. In addition, Section 51.44 of the guidelines permits you to request that the Attorney General reconsider the objection. However, until the objection is withdrawn or a judgment from the District of Columbia Court is obtained, the effect of the objection by the Attorney General is to make Act No. 204 (1963), Act No. 1177 (1982), and Act No. 470 (1983) legally unenforceable with respect to their authorizing the use of at-large elections. 28 C.F.R. 51.9.

The Attorney General does not interpose any objection to Act No. 1054, H.B. No. 1683 (1984), nor to Act No. 1177, H.B. No. 1901 (1982), insofar as it does not authorize the use of at-large elections. However, we feel a responsibility to point out that Section 5 of the Voting Rights Act expressly provides that the failure of the Attorney General to object does not bar any subsequent judicial action to enjoin the enforcement of such changes. 28 C.F.R. 51.48.

If you have any questions, feel free to call Carl W. Gabel (202-724-8388), Director of the Section 5 Unit of the Voting Section.

Sincerely,

Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division