



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20035

November 29, 1994

Harold Lambert, Esq.
Decatur County Attorney
P. O. Box 735
Bainbridge, Georgia 31717

Dear Mr. Lambert:

This refers to Act No. 1014 (1994), which provides for the establishment of an elected chairperson, an increase in the number of county commissioners from six to seven, a change in the method of election from single-member districts to six single-member districts and one at large, and the term of office and implementation schedule for the chairperson, in Decatur County, Georgia, 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 responses to our August 1, 1994, request for additional information on September 12 and 30, and November 22, 1994.

We have carefully considered the information you have provided, as well as Census data and information from other interested parties. According to the 1990 Census, the county has a total population of 25,511 persons, of whom 38.9 percent are black. The county currently elects six commissioners from single-member districts; the chairperson is selected from among the elected members of the commission. Two black persons serve on the commission, each of whom was elected from a majority-black single-member district. To date, however, black voters have been unable to elect their candidates of choice to county-wide offices in Decatur County due largely to an apparent pattern of racially polarized voting.

The county proposes to add a seventh seat to the commission and to elect the additional commissioner on an at-large basis with a majority vote requirement. The new at-large member will have a full vote on the board and will perform essentially the same duties as the chairperson of the commission presently performs. Under these circumstances, it appears that black

voters will not have an equal opportunity to elect candidates of their choice to the at-large position, and will therefore enjoy a smaller share of representation under the expanded commission than is available to them under the current system. Hence, it appears that the proposed increase in the number of county commissioners to seven, the establishment of an elected chairperson, and the change in method of election will "lead to a retrogression in the position of . . . minorities with respect to their effective exercise of the electoral franchise." Beer v. United States, 425 U.S. 130, 141 (1976).

Alternatives were available that would have addressed the county's apparent concern regarding tie votes on the commission, but would not similarly diminish minority voting strength. Those include an increase to seven or a decrease to five single-member districts. The county appears to have rejected such alternatives in favor of the proposed expansion and election method without a satisfactory race-neutral justification, and no effort appears to have been made to obtain the views of the minority community regarding the effect of the proposed changes prior to their adoption.

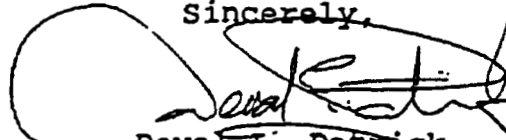
Under Section 5 of the Voting Rights Act, the submitting authority has the burden of showing that a submitted change has neither a discriminatory purpose nor a discriminatory effect. See Georgia v. United States, 411 U.S. 526 (1973); see also the Procedures for the Administration of Section 5 (28 C.F.R. 51.52). In light of the considerations discussed above, I cannot conclude, as I must under the Voting Rights Act, that your burden has been sustained in this instance. Therefore, on behalf of the Attorney General, I must object to the establishment of an elected chairperson, the increase in the number of county commissioners and the change in the method of election.

We note that under Section 5 you have the right to seek a declaratory judgment from the United States District Court for the District of Columbia that the proposed 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, you may 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 establishment of an elected chairperson, the increase in the number of county commissioners and the change in the method of election continues to be legally unenforceable. Clark v. Roemer, 500 U.S. 646 (1991); 28 C.F.R. 51.10 and 51.45.

With regard to the remaining changes occasioned by Act No. 1014, i.e., the term of office and implementation schedule for the elected chairperson's position, these changes are directly related to the objected-to changes. Accordingly, no determination by the Attorney General is required or appropriate concerning these matters. 28 C.F.R. 51.22(b).

To enable us to meet our responsibility to enforce the Voting Rights Act, please inform us of the action Decatur County plans to take concerning this matter. If you have any questions, you should call Ms. Zita Johnson-Betts (202-514-8690), an attorney in the Voting Section.

Sincerely,

A handwritten signature in black ink, appearing to read "Deval L. Patrick", written over a horizontal line.

Deval L. Patrick
Assistant Attorney General
Civil Rights Division