

Ret. 11-11-74
JSP:GWJ:RAS:rb
D.J. 166-012-3

NOV 12 1974

Honorable Samuel S. Mendenhall
Member, South Carolina Senate
Rock Hill, South Carolina 29730

Dear Senator Mendenhall:

This is in reference to the change in the form of government for York County, South Carolina, and the establishment of the York County Council, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965. This submission was completed on September 13, 1974. While we have made every effort to comply with your request for expedited consideration pursuant to the procedural guidelines for the administration of Section 5 (28 C.F.R. 51.22), we have been unable to complete our evaluation until this time.

Based on a careful examination of the information you have furnished, the data supplied to us by the State of South Carolina Division of Research and Statistical Services, and a review of all other relevant facts available, the Attorney General does not object to the proposed change in the form of government for York County insofar as it provides for the establishment of the York County Council. Nevertheless, 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 change.

While the Attorney General does not object to the change in form of government, however, we are unable to reach a like conclusion with respect to the system adopted for the election of the members of the new county council. Our analysis shows that the new council would consist of four members each of whom would be elected by vote of the county at-large with one of the four council members required to be a resident of each of the existing school board districts. Under recent court decisions, such at-large election systems have been found to be invalid where the effect of their use is to minimize or cancel out the voting strength of racial minorities. See, e.g., White v. Regester, 413 U.S. 755 (1973); Petersburg v. United States, 413 U.S. 962 (1973) affirming 354 F. Supp. 1021; Turner v. McKeithen, 495 F.2d 191 (5th Cir. 1973); Turner v. McKeithen, 455 F.2d (5th Cir. 1973); Yalverton v. Briggers, 379 F. Supp. 617 (N.D. Ala. 1974).

Our analysis shows that blacks constitute a substantial minority of the population in York County but have little chance of electing a candidate of their choice under an at-large system of elections. On the other hand, the current four state legislative districts in the county demonstrate the availability of alternatives which would not have that effect. In this regard, we note that in the first election held under the newly drawn state legislative districts, blacks, voting as a group, were able to elect a black person as a state representative. Under these circumstances, we cannot conclude, as we must under the Voting Rights Act, that the requirement for electing the four council members by a vote of the county at-large will not have a racially discriminatory effect. I must, therefore, on behalf of the Attorney General interpose an objection to the at-large election feature of the submission.

Of course, as provided by Section 5 of the Voting Rights Act, you have the alternative of instituting action in the United States District Court for the District of Columbia seeking a declaratory judgment that the present subdivision does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color.

Sincerely,

J. STANLEY POTTINGER
Assistant Attorney General
Civil Rights Division