



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

October 2, 1987

Honorable Jack M. Rains
Secretary of State of Texas
P. O. Box 12697
Austin, Texas 78711

Dear Mr. Secretary:

This refers to Chapter 2, S.B. No. 88 (1987), which provides for the creation of the Crockett County Hospital District, a referendum requirement, the at-large election of seven directors to two-year, staggered terms by numbered positions and plurality vote, and the method of filling vacancies for the district in Crockett County, Texas, 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 the information to complete your submission on August 3, 1987.

We have considered carefully the information furnished by you as well as information and comments from other interested parties. At the outset, we note that presently Crockett County operates a hospital through a board of directors consisting of six members who are appointed by the county commissioners. The county commissioners are elected from four single-member districts, two of which have Hispanic majorities and are represented by Hispanic commissioners. Two of the members appointed to the present board of hospital directors are Hispanic. Under the proposed system the new hospital district would be governed by a board of seven directors elected at large by numbered positions to staggered terms.

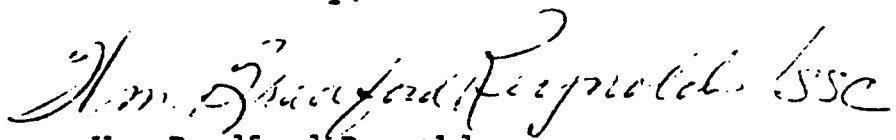
The 1980 Census reveals that Hispanics constitute a substantial proportion of the population in Crockett County and, based on information available to us, bloc voting along racial lines appears to exist. In this context, the at-large system with numbered positions would appear to be the most restrictive on minority voting strength of all the systems available to choose from since numbered positions serve to prevent the use by Hispanic voters of the device known as single-shot voting. These circumstances would seem to preclude any opportunity for Hispanics to elect candidates of their choice to the new hospital governing board and no legitimate nonracial reason has been provided for selecting this method of election.

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 Section 51.52(a) of the Procedures for the Administration of Section 5 (52 Fed. Reg. 497-498 (1987)). In light of the considerations discussed above, I cannot conclude, as I must under the Voting Rights Act, that the burden has been sustained in this instance. Therefore, on behalf of the Attorney General, I must object to Chapter 2, S.B. No. 88 (1987), to the extent that it proposes to use the at-large system with numbered positions for electing the board of directors for the newly created Crockett County Hospital District.

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, color, or membership in a language minority group. In addition, Section 51.45 of the guidelines (52 Fed. Reg. 496 (1987)) 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 the at-large system with numbered positions legally unenforceable. See also Section 51.10 (52 Fed. Reg. 492 (1987)).

To enable this Department to meet its responsibility to enforce the Voting Rights Act, please inform us of the course of action the State of Texas plans to take with respect to this matter. If you have any questions, feel free to call Sandra S. Coleman (202-724-6718), Director of the Section 5 Unit of the Voting Section.

Sincerely,



Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division