



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D C 20530

Honorable Arthur Griffith, Jr.
Chairman, Macon-Bibb County
Board of Elections
639 Mulberry Street
Macon, Georgia 31201

26 NOV 1982

Dear Mr. Griffith:

This is in reference to Act No. 1185 (H.B. No. 1918 (1982)), which reapportions the board of education districts in Bibb 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. Your submission was completed on September 27, 1982. Although we noted your request for expedited consideration, we have been unable to respond until this time.

We have considered carefully the information you have provided, as well as relevant Census data and comments from other interested parties. On the basis of our analysis we are unable to conclude that the new plan does not have a racially discriminatory purpose or effect.

At the outset, we note that the Voting Rights Act proscribes any change which would "lead to a retrogression in the position of racial minorities with respect to their effective exercise of the electoral franchise." Beer v. United States, 425 U.S. 130, 141 (1976). Our analysis shows that under the existing plan blacks constitute a majority of the potential voters in three of the six election districts. Under the proposed plan blacks have been afforded that potential in only two districts, even though their percentage of the population now has increased. Thus, it would appear that the plan under submission results in a "retrogression" under the principle of the Beer case.

Although one of the existing black majority districts (District Two) is significantly below the ideal district size and a second (District Five) is less significantly so, it appears that the population of these two districts easily could have been increased by the requisite amount without eliminating the black potential in a third district. Several alternate plans

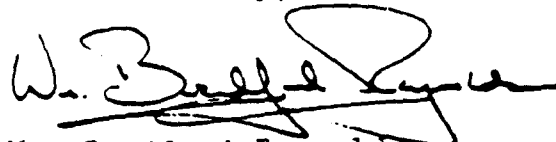
which would have preserved the minority potential in three districts were presented to the board and rejected, apparently for no compelling reason. In addition, our analysis of the submitted plan shows that but for a seemingly unnecessary fragmentation of the area of black population concentration outside the two black majority districts, a third district having potential for black voters would have resulted.

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 view of the circumstances discussed above, I cannot conclude that the Bibb County Board of Education has shown the absence of such a purpose or effect in this case. Accordingly, on behalf of the Attorney General, I must interpose an objection to this redistricting plan.

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 this change has neither the purpose nor will have the effect of denying or abridging the right to vote on account of race or color. In addition, the Procedures for the Administration of Section 5 (28 C.F.R. 51.44) permit you to request the Attorney General to reconsider the objection. However, until the objection is withdrawn or the judgment from the District of Columbia Court is obtained, the effect of the objection by the Attorney General is to make this redistricting plan legally unenforceable. See also 28 C.F.R. 51.9.

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

Sincerely,



Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division