



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

July 20, 1992

Alex L. Zipperer, Esq.
Zipperer & Lorberbaum
P. O. Box 9147
Savannah, Georgia 31412

Dear Mr. Zipperer:

This refers to Act No. 608 (1992), which provides for a change in the method of selecting the chairperson from appointment among the commissioners to election from the county at large; expansion of the number of officials on the board of county commissioners from five to six; an increase in the term of the chairperson from a one-year to a four-year term; and the increase in the compensation for the chairperson in Effingham 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 response to our request for additional information on May 19, 1992.

We have considered carefully the information you have provided, along with information available to us from other sources. Under the current election system the chairperson of the board of commissioners is selected annually from among the five commissioners, each of whom is elected from single-member districts. One of the single-member districts is over 50 percent black in population and the commissioner elected from that district has served as the vice-chairperson and has acted as chairperson on several occasions. We also note that the single-member district system was adopted in response to a lawsuit that challenged the at-large method of electing commissioners under Section 2 of the Voting Rights Act, 42 U.S.C. 1973.

Under the proposed election system, the chairperson would be elected as a designated position by countywide election with a majority vote requirement. In the context of racial bloc voting which pertains in Effingham County, the opportunity that currently exists for black voters to elect the commissioner who

will serve as chairperson would be negated. See Dillard v. Greshaw County, 831 F.2d 246 (11th Cir. 1987); United States v. Dallas County Commission, 850 F.2d 1430 (11th Cir. 1988), cert. denied, 490 U.S. 1030 (1989); 850 F.2d 1433 (11th Cir. 1988), cert. denied, 490 U.S. 1030 (1989).

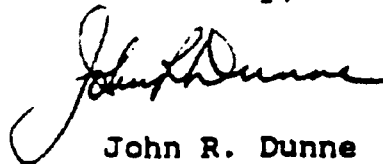
Moreover, it appears that these results were anticipated by those responsible for enactment of the proposed legislation. The proposed change to an at-large chairperson followed the elimination of the position of vice chairperson, which had been held by a black commissioner since 1987. Although we have been advised that the proposed system was adopted in order to avoid the possibility of tie votes in the selection of the chairperson and for other proposals before the board, this rationale appears tenuous since the change to an even number of commissioners would invite tie votes to a greater extent than the existing system.

Under Section 5 of the Voting Rights Act, the submitting authority has the burden of demonstrating that a proposed change does not have a racially discriminatory purpose or effect. Georgia v. United States, 411 U.S. 526 (1973). In light of the considerations discussed above, I cannot conclude, as I must under the Voting Rights Act, that the submitted legislation is entitled to preclearance. Therefore, on behalf of the Attorney General, I must object to Act No. 608 (1992).

We note that under Section 5, you have the right to seek from the United States District Court for the District of Columbia a declaratory judgment preclearing the proposed changes in Act 608. 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, Act No. 608 (1992) continues to be legally unenforceable. Clark v. Roemer, 111 S.Ct. 2096 (1991); 28 C.F.R. 51.10 and 51.45.

To enable us to meet our responsibility to enforce the Voting Rights Act, please inform us of the action Effingham County plans to take concerning this matter. If you have any questions, you should call Robert Kengle (202-514-6196), an attorney in the Voting Section.

Sincerely,



John R. Dunne
Assistant Attorney General
Civil Rights Division