

JSP: BHW: mrx  
DJ 166-012-3  
V9026-9029

DEC 29 1975

Mr. I. Murchison Biggs  
Attorney and Counsellor at Law  
304 East Fifth Street  
Lumberton, North Carolina 28358

Dear Mr. Biggs:

This is in reference to Chapter 1045 (1967), Chapter 770 (1969), Chapter 207 (1973), and House Bill 1096 (1975), North Carolina Legislative Acts, all providing for the nomination and election of the Board of Education of Robeson County, North Carolina, which were submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965. Your submission was completed on October 31, 1975.

The Attorney General does not interpose an objection to the changes occasioned by Chapter 1045, Chapter 207, and House Bill 1096. Additionally, the Attorney General does not interpose an objection to Chapter 770 except as set out below. However, 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 changes.

I note that the information which you provided to us regarding the changes effected by the laws which you submitted and the state of the law preceding those changes indicates that residents of city school districts within Robeson County participated in

elections affecting the county school board prior to and after November 1, 1954 (the effective date of Section 5 of the Voting Rights Act). Accordingly, while we considered the effect of participation by city school district residents in county school board elections in analyzing all of the changes which you submitted under Section 5, the only submitted changes directly affecting the fact, rather than the extent, of such participation are set out in Section 4 of Chapter 770 requiring a general election to be held at large in the county, and Section 1 of House Bill 1096 limiting nomination and election of county school board members to qualified voters residing in the county school district.

After careful consideration of your original submission and the additional information you have provided, demographic data relating to the school districts in Robeson County, and information provided to us from other sources, we are unable to conclude that Section 4 of Chapter 770 did not have a prohibited effect under Section 5 of the Voting Rights Act.

Regarding Section 4 of Chapter 770, our analysis indicates that blacks and Indians constitute a meaningful majority of the residents of the county school district, and that the participation of city school district residents in county school board elections significantly diluted the voting strength of those county school district residents. Under these circumstances, we are unable to conclude that the participation of city school district voters in the general election required under Chapter 770 did not have the effect of diluting the voting strength of black and Indian electors in the county school district.

In addition, we are unable to conclude that the addition of a staggered term feature in Chapter 770 did not constrict the field of available offices to be elected, and thus the ability of the county school district residents to realize the election of a candidate of their choice. Accordingly, on behalf of the Attorney General I must interpose an objection to Section 4 of Chapter 770. In doing so, I fully realize that the provisions of House Bill 1096, when implemented in 1976, will cure the basis for the objection of Section 4 of Chapter 770, i.e. the participation by city school district voters in county school board elections is prohibited under House Bill 1096. However, since the objectionable features of Chapter 770 were changes affecting voting in force and effect since the effective date of Section 3 of the Act, the objection interposed here is technically necessary under Section 3.

Of course, as provided by Section 3 of the Voting Rights Act, you have the alternative of instituting an action in the United States District Court for the District of Columbia, seeking a declaratory judgment that Section 4 of Chapter 770 did not have the effect of denying or abridging the right to vote on account of race or color or in contravention of the guarantees of Section 4(f) of the Act as amended.

Sincerely,

J. Stanley Pottinger  
Assistant Attorney General  
Civil Rights Division