



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

OCT 26 1987

Lee E. Knott, Esq.  
P. O. Box 548  
Washington, North Carolina 27889-0548

Dear Mr. Knott:

This refers to the implementation of Chapter 972 (1967), as amended by Chapter 1301 (1969), and the school board's March 5, 1970, resolution which provide for at-large elections for the county board of education on a nonpartisan basis with a plurality vote requirement, reduce the board from six to five members, and eliminate residency districts; Chapter 210 (1971) which reimposes residency districts; and Chapter 855 (1975) which disqualifies residents of the Washington City School Administrative Unit from voting in elections for the board of education in Beaufort County, North Carolina, 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 27, 1987.

We have considered carefully the information you have provided, as well as comments and information received from other interested parties. The Attorney General does not interpose any objections to the changes occasioned by Chapters 972, 1301, and 855, and the school board's March 5, 1970, resolution. 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. See Section 51.41 of the Procedures for the Administration of Section 5 (52 Fed. Reg. 496 (1987)).

With regard to Chapter 210 (1971), we note that under the method of election for which Section 5 preclearance has been granted herein, the school board consists of five members elected at large on a nonpartisan basis to four-year, staggered terms without residency districts. That system, by affording black voters the opportunity to utilize the election technique of single-shot voting, would appear to provide them some opportunity to participate in the electoral process and to elect candidates of their choice to office. However, Chapter 210, by imposing a

residency district requirement in school board elections, eliminates that opportunity by effectively precluding the use of single-shot voting.

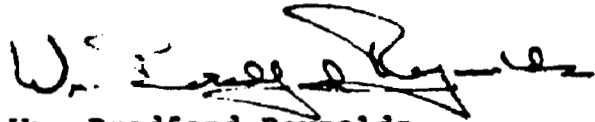
Our analysis of precinct returns for elections involving black candidates for the school board and the county board of commissioners shows what appears to be a pattern of racially polarized voting in Beaufort County. Black candidates generally seem to be the choice of black voters but receive minimal support from white voters. They consistently have lost to white candidates because white voters are the clear majority of the at-large electorate. Thus, no black has been elected to either body in modern times, and these voting patterns apparently have engendered such frustration in the black community that no black has run for either board since 1980. On the other hand, in the City of Washington, where single-shot voting is permitted, it appears that blacks have achieved at least some limited success in elections for the city council and the city school board.

Under Section 5 of the Voting Rights Act, the submitting authority has the burden of showing that a submitted change has neither a discriminatory purpose nor a discriminatory effect. See Georgia v. United States, 411 U.S. 526 (1973); see also Section 51.52 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 that burden has been sustained in this instance. Therefore, on behalf of the Attorney General, I must object to the imposition of residency districts in school board elections.

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, 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 use of residency districts occasioned by Chapter 210 (1971) legally unenforceable. 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 Beaufort County Board of Education plans to take with respect to this matter. If you have any questions, feel free to call Mark A. Posner (202-724-6388), Deputy Director of the Section 5 Unit of the Voting Section.

Sincerely,

A handwritten signature in dark ink, appearing to read "Wm. Bradford Reynolds", with a stylized flourish at the end.

Wm. Bradford Reynolds  
Assistant Attorney General  
Civil Rights Division