

DEC 5 1972

Mr. Roy Moultrie  
Ordinary, Harris County  
Hamilton, Georgia 31811

Dear Mr. Moultrie:

This is in reference to the changes in county commission election procedure for Harris County, Georgia under Georgia Act No. 1359, submitted by you to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended.

We have given careful consideration to the submitted Act and the supporting information, as well as to information received from other sources. Insofar as time limitations have allowed, we have studied the Act in detail. The Attorney General does not interpose any objections to the increase in the number of county commissioners from three (3) to five (5) and other changes as authorized by Sections 1, 3, 4, 5, 6, 7, and 8 of the Act. 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.

With respect to Section 2 of the Act which imposes a residential post requirement for county commissioner elections, the information available to us reflects that this requirement coupled with

the majority vote requirement under Georgia law, may well have the effect of diluting or minimizing the voting strength of blacks. Under the old system the possibility existed for a minority candidate to be elected from the at-large field of several candidates who were elected for multiple seats on the commission. However, Section 2 of the submitted Act would require such a minority candidate to face a single opponent in a runoff for a designated post. Where, as here, blacks are a minority and there has been a pattern of racial block voting, we believe that the effect of a designated post system may be to diminish significantly the possibilities of a member of a racial minority being elected to the county commission. The results of the recent runoff in Harris County would tend to demonstrate this effect.

In view of these considerations, we are unable to conclude, as we must under the Act, that this change does not have the effect of abridging voting rights on account of race or color. For that reason, I must, on behalf of the Attorney General interpose an objection to the implementation of Section 2 of Act No. 1359.

Of course, as provided by Section 5, you may seek a judgment in the District Court for the District of Columbia declaring that the change in question has neither the purpose nor will have the effect of denying or abridging the right to vote on account of race or color.

Sincerely,

DAVID L. NORMAN  
Assistant Attorney General  
Civil Rights Division

MAR 30 1973

DJ 166-012-3

Mr. Roy Moultrie  
Ordinary, Harris County  
Hamilton, Georgia 31811

Dear Mr. Moultrie:

Reference is made to our letter of December 5, 1972 interposing an objection on behalf of the Attorney General to the creation of a residential post requirement for county commissioner elections under Section 2 of Georgia Act 1359 submitted by you pursuant to Section 5 of the Voting Rights Act of 1965, as amended.

On February 1, 1973 we received a letter from Mr. William B. Steis, an attorney acting on behalf of Harris County, stating that a designated post requirement has been in effect for county-wide elections in the State of Georgia since 1964 as specified in §34-1015 of the Georgia Election Code, and that Harris County has been holding its elections pursuant to that act since 1964. Our subsequent examination of this situation indicates that this statute was submitted to the Attorney General in 1970 pursuant to Section 5 of the Voting Rights Act of 1965 and no objection was interposed.

Viewed in this light it appears that the only change effected by Section 2 of Act 1359 is from a county-wide residency requirement to a district residency requirement. Under these circumstances, and based upon our evaluation of the change contained in Section 2 of Act 1359, the objection to that section interposed by our letter of December 5, 1972 is hereby withdrawn.

We feel a responsibility, however, 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 the plan.

Sincerely,

J. STANLEY POTTINGER  
Assistant Attorney General  
Civil Rights Division