

D.J. 166-012-3
V9018

OCT 23 1975

Mr. Joseph J. Gaines
City Attorney
City of Athens
304 Southern Mutual Building
Athens, Georgia 30601

Dear Mr. Gaines:

This is in reference to Act 242 of the 1975 Georgia General Assembly submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965. Your submission was completed on August 25, 1975.

The submitted change would require a majority of the votes cast to win election to the Office of Mayor, Alderman and Recorder for the City of Athens, Georgia. We have given careful consideration to the information furnished by you as well as Bureau of the Census data and information and comments from interested parties. On the basis of our analysis we are unable to conclude, as we must under the Voting Rights Act, that the imposition of the majority vote requirement will not have a racially discriminatory effect in the conduct of elections in Athens.

Recent court decisions to which we feel obligated to give great weight, indicate that the majority vote requirement has the potential for abridging minority voting rights. See White v. Raster, 412 U.S. 755 (1973); Graves v. Barnes, 343 F. Supp. 704 (W.D. Tex. 1972); Sims v. Amos, 336 F. Supp. 924 (M.D. Ala. 1972); Denston v. Scott, 336 F. Supp. 206 (E.D. N.C. 1972). That that potential is a realistic one in

Athens is illustrated to some extent by the results of a councilmanic contest in 1973 when, according to our information, a black candidate, after being defeated in the primary, ran as an independent in the general election and against two opponents won with a plurality of the vote.

Under such circumstances we cannot conclude that this change will not have the effect of denying or abridging the right to vote on account of race or color. I must, therefore, on behalf of the Attorney General, interpose an objection to the implementation of Act 242.

Of course, as provided by Section 5 of the Voting Rights Act, you have the right to seek a declaratory judgment from the 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. Until such judgment is rendered by that Court, however, the legal effect is to make unenforceable the change to a majority vote requirement.

Sincerely,

J. Stanley Pottinger
Assistant Attorney General
Civil Rights Division