

D.J. 166-012-3  
X6376

JUN 18 1976

Mr. Hubert O. Godwin  
Attorney at Law  
136 Adams Avenue  
Social Circle, Georgia 30279

Dear Mr. Godwin:

This is in reference to Act No. 307 of the General Assembly of Georgia providing for an increase in the terms of office for the Mayor and City Council members, staggered terms, the elimination of primary elections and a change in the title of the Mayor pro tem to Vice Mayor for the City of Social Circle, Walton County, Georgia, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended. Your submission was received on April 19, 1976.

In regard to Section 2B of Act No. 307, which provides for the elimination of primary elections in the City of Social Circle, and Section 4 of Act No. 307, which changes the title of mayor pro tem to vice mayor, the Attorney General does not interpose any objections to the changes in question. 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.

In regard to Section 2A of Act No. 307, which provides for an increase in the terms of office for the mayor and city council members and for staggered terms, I have given careful consideration to the

submitted changes. After examining the changes with supporting information and comments from interested parties, as well as analysis of recent court decisions such as Beer v. United States, U.S. 44 U.S.L.W. 4435, March 30, 1976; Georgia v. United States, 411 U.S. 526 (1973); and Graves v. Barnes, 343 F. Supp. 704 (W.D. Tex. 1972), aff'd, White v. Kester, 412 U.S. 755 (1973), we are unable to conclude, as we must under the Voting Rights Act, that the staggering of the terms of city council members will not have a racially discriminatory effect. Our analysis reveals that although blacks constitute a substantial proportion of the population of Social Circle, they have only recently achieved representation on the city council. The imposition of staggered terms in the context of the at-large system of election in the City of Social Circle would result in the reduction of the field of candidates and would have the effect of limiting the potential for black voters to elect a candidate of their choice and, thus, constitutes a dilution of black voting strength.

For the foregoing reasons, I must on behalf of the Attorney General interpose an objection to Section 2A of Act No. 307. Of course, Section 3 permits seeking approval of all changes affecting voting by the United States District Court for the District of Columbia irrespective of whether the changes have previously been submitted to the Attorney General. However, until such a judgment is rendered by that Court, the legal effect of the objection by the Attorney General is to render the changes in question legally unenforceable.

Sincerely,

J. Stanley Pottinger  
Assistant Attorney General  
Civil Rights Division