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MAR 15 1979

Mr. James D. Turpin
Superintendent
Pike County Public Schools
Zebulon, Georgia 30295

Dear Mr. Turpin:

This is in reference to House Bill No. 189 (1967) and House Bill No. 1947 (1972), which changed the method of selection of members of the Board of Education of Pike County, Georgia, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended. Your submission of House Bill No. 189 was made and the submission of House Bill 1947 was completed on January 15, 1979.

In regard to House Bill No. 189 (1967), the Attorney General does not interpose any objection to the change 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 change.

In regard to House Bill No. 1947 (1972), we have given careful consideration to the information furnished by you as well as Bureau of the Census data. Our analysis reveals that blacks constitute a substantial proportion of the population of Pike County and that, pursuant to the provisions of House Bill No. 1947, members of the Pike County Board of Education are elected at-large, from residency districts. On the basis of our analysis, we are unable to conclude, as we must under the Voting Rights Act, that this change to at-large elections with residency requirements, in the context of the pre-existing staggered terms and majority vote requirement, will not have a racially discriminatory effect on blacks in Pike County. Court decisions, to which we feel obligated to give great weight, indicate that the combination of features such as these may have the effect of abridging minority voting rights. See White v. Regester, 412 U.S. 755 (1973); Zimmer v. McKeithen, 485 F.2d 1297 (5th Cir. 1973), aff'd sub nom. East Carroll Parish School Board v. Marshall, 424 U.S. 636 (1976).

Georgia

Section 5 of the Voting Rights Act places upon the submitting authority the burden of proving that a submitted change in voting practice and procedure does not have a racially discriminatory purpose or effect. (See Georgia v. United States, 411 U.S. 526 (1973); 28 C.F.R. 51.19.) Because of the potential for diluting black voting strength inherent in the use of at-large elections with residency requirements in Pike County, we are unable to conclude that the County has sustained its burden of showing that the change to at-large elections with residency requirements will not have a racially discriminatory effect in Pike County. Accordingly, on behalf of the Attorney General, I must interpose an objection to the change occasioned by House Bill No. 1947 (1972), which replaced the single-member district system of electing members of the Board of Education of Pike County with an at-large with residency system.

In reaching this decision, we have taken particularly into consideration the nature of the change involved - from single-member districts to at-large elections - and the factors considered by the Supreme Court in United States v. Beer, 425 U.S. 130 (1976). The Court stated that (at 141):

> ". . . the purpose of Section 5 has always been to insure that no voting procedure changes would be made that would lead to a retrogression in the position of racial minorities with respect to their effective exercise of the electoral franchise."

It is our view that the change accomplished by H.B. 1947 would represent such a retrogression.

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, the Procedures for the Administration of Section 5 (28 C.F.R. 51.21(b) and (c), 51.22, and 51.24) permit you to request the Attorney General to reconsider the objection. However, until the objection is withdrawn or the judgment from the District of Columbia Court obtained, the effect of the objection by the Attorney General is to make the change in question legally unenforceable.

To enable this Department to meet its responsibility to enforce the Voting Rights Act, please inform us within twenty days of your receipt of this letter of the course of action the Pike County Board of Education plans to take with respect to this matter. If you have any questions concerning this letter, please feel free to call Voting Section Attorney David Hunter at 202—633-3849.

Sincerely,

Drew S. Days III
Assistant Attorney General
Civil Rights Division

JUN 11 1979

Mr. Alan W. Connell
Bridges and Connell
Attorneys at Law
Bank of Upson Building
Post Office Box 841
Thomaston, Georgia 30286

Dear Mr. Connell:

This is in reference to your request for reconsideration of the March 13, 1979 objection pursuant to Section 5 of the Voting Rights Act, as amended, to House Bill No. 1947 (1972), which provides for the at-large election of members of the Board of Education of Pike County, Georgia. Your request was received on April 12, 1979.

We have carefully studied the information provided in your letter, conducted additional research with respect to this matter, and reevaluated the information that was previously before us. We have not, however, found a legal basis for altering our March 13, 1979 determination. Our research and analysis indicates that blacks would have greater influence in board of education elections under the prior single-member district election system than they have under the at-large system adopted in 1972. Thus the change to at-large elections would appear to be retrogressive under the standard of Beer v. United States, 425 U.S. 130, 141 (1976). You have provided no information in support of the position that a single-member district system would not provide any viable black-majority districts, and our research indicates the probability that a system of fairly-drawn single-member districts would include such a district. In addition, the use of residency districts and staggered terms and the majority vote and numbered posts requirements contained in Georgia law (sections 34-1513(a) and 34-1015 of the Georgia Election Code) limit potential black voting strength under an at-large system.

Accordingly, on behalf of the Attorney General, I must decline to withdraw the objection to the at-large election of the Board of Education of Pike County, provided by House Bill No. 1947 (1972).

If you have specific information that would support a conclusion that the at-large election of the board of education will not have a racially discriminatory effect, a second reconsideration request would be appropriate. Such information might include precinct election returns showing the absence of racially polarized voting within Pike County or population statistics (for example, from the 1980 census) showing the absence of concentrations of black population within the county.

Of course, as provided by Section 5 of the Voting Rights Act and as we explained in our letter of March 15, 1979, you have the right to seek a declaratory judgment from the United States District Court for the District of Columbia that the change has neither the purpose nor the effect of denying or abridging the right to vote on account of race or color. However, until the objection is withdrawn or the judgment from the District Court obtained, the effect of the objection by the Attorney General is to make the implementation of the at-large election system provided by House Bill No. 1947 (1972) legally unenforceable. To enable this Department to meet its responsibility to enforce the Voting Rights Act, please inform us within twenty days of your receipt of this letter of the course of action the Pike County Board of Education plans to take with respect to this matter. Feel free to call Voting Section Attorney David H. Hunter, at 202--724-7439, if you have any questions concerning this letter.

Sincerely,

DREW S. DAYS III
Assistant Attorney General
Civil Rights Division