



Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

August 19, 1983

Alex Davis, Esquire  
Attorney, Taylor County  
Board of Education  
P. O. Box 697  
Butler, Georgia 31006

Dear Mr. Davis:

This is in reference to Act No. 283, H.B. No. 566 (1975), which provides for the reduction in the number of school board members from nine to five; changes the method of electing school board members; the redistricting of school districts; and the June 17, 1975, referendum election for the board of education in Taylor County, Georgia, submitted to the Attorney General of 1965, as amended, 42 U.S.C. 1973c. We received the information to complete your submission on June 20, 1983.

The Attorney General does not interpose any objection to the referendum election. 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. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.48).

With respect to the remaining changes, we note at the outset that the board has failed to submit for preclearance the change from the single-member district form of elections to the at-large system and, yet, has in no wise demonstrated that that change is not subject to Section 5 review. Likewise, the board has failed to provide us with information we requested concerning population statistics, and community participation in development of the plan. Indeed, the board has been most uncooperative throughout the review process.

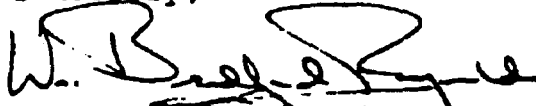
That is, of course, the board's prerogative, but Section 5 imposes on the submitting authority the burden of demonstrating that the proposed change is free of discriminatory purpose or

effect. See Georgia v. United States, 411 U.S. 526 (1973); see also 28 C.F.R. 51.39(e). Where, as here, no good faith effort has been made to make the necessary showing, I cannot conclude, as I must under the Voting Rights Act, that the board has sustained its burden in this instance. Therefore, on behalf of the Attorney General, I must object to the remaining voting changes involved in Act No. 283, H.B. No. 566 (1975).

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 these changes have 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 51.44 of the guidelines permits you to request that the Attorney General reconsider the objection. In this connection, should you advise us of the date of the enactment and implementation of the change from district elections to elections from nine residency districts and provide us with adequate information to analyze that change if it was made on or after November 1, 1964, we will give the matter our prompt attention. However, until the objection is withdrawn or the judgment from the District of Columbia Court is obtained, the effect of the objection by the Attorney General is to make the remaining changes in Act No. 283, H.B. No. 566 (1975), legally unenforceable. 28 C.F.R. 51.9.

To enable this Department to meet its responsibility to enforce the Voting Rights Act, please inform us of the course of action Taylor County plans to take with respect to this matter. If you have any questions, feel free to call Carl W. Gabel (202-724-8388), Director of the Section 5 Unit of the Voting Section.

Sincerely,



~~W. Bradford Reynolds~~  
Assistant Attorney General  
Civil Rights Division