Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

SEP 14 1981

J. B. Nix, Jr., Esq.
P. O. Box 167
Evergreen, Alabama 36401

Dear Mr. Nix:

This is in reference to Act No. 2284 (1971) which provides for a change in the method of electing members of the Conecuh County, Alabama, Board of Directors from four single-member districts to two multi-member districts, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. Your submission was completed on July 16, 1981.

We have given careful consideration to the information you have provided as well as to comments from interested parties. Our review shows that, at the time the change was enacted, minorities who were becoming active politically as a result of increased voter registration following the enactment of the Voting Rights Act of 1965 constituted a majority in one of the single-member districts. In addition, our analysis has revealed nothing to indicate that the change was made to alter in any way the administrative functions of the board members. Further, it does not appear that the change to multi-member districts was based on, nor does it appear to have addressed, any significant governmental interest except the need to comply with the one-person, one-vote principle, a need that could have been responded to in other ways, such as a realignment of the previously existing single-member districts.

The change has submerged into larger multi-member districts sizeable black concentrations so as to dilute the minority voting strength that those voters would have enjoyed under a continued single-member district plan. These circumstances, in the context of the racially polarized voting patterns that seem to exist in Conecuh County, raise at least an inference of a proscribed racially discriminatory purpose in the adoption and implementation of such a system and clearly results in a prohibited effect under the Act. See Wilkes County, Georgia v. United States, 450 F. Supp. 1171 (D. D.C. 1978), aff'd, 439 U.S. 999.

Under Section 5 of the Voting Rights Act the submitting authority has the burden of proving that a submitted change has no discriminatory purpose or effect. See, e.g., Georgia v. United States, 411 U.S. 526 (1973); see also Section 51.39(e) of the Procedures for the Administration of Section 5 (46 Fed. Reg. 878). In light of the considerations discussed above, I cannot conclude, as I must under the Voting Rights Act, that that burden has been sustained in this instance. Therefore, on behalf of the Attorney General, I must object to the implementation of the submitted Act.

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, color or membership in a language minority group. In addition, the Procedures for the Administration of Section 5 (Section 51.55, 46 Fed. Reg. 878) 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 is obtained, the effect of the objection by the Attorney General is to make the implementation of Act No. 2284 (1971) 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 Conecuh County, Alabama, plans to take with respect to this matter. If you have any questions concerning this letter, please feel free to call Carl W. Gabel (202-724-7439), Director of the Section 5 Unit of the Voting Section.

Sincerely,

Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division