U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

19 JUL 1982

Honorable Calvin Steindorff
Probate Judge and Chairman,
Butler County Commission
P.O. Box 756
Greenville, Alabama 36037

Dear Judge Steindorff:

This is in reference to Act No. 136 (1969), which changes the method of electing commissioners from district to at-large elections in Butler County, Alabama, 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 May 20, 1982.

We have given careful consideration to the information you have submitted, comments from interested parties, and relevant decisions of the federal courts. See, e.g., Wilkes County, Georgia v. United States, 450 F. Supp. 1171 (D. D.C. 1978), aff'd, 439 U.S. 999. We note that the black population of Butler County is concentrated in the northwestern portion of the county and in an adjacent area of the City of Greenville. Accordingly, under the single-member district method of election, which existed prior to the submitted change to at-large with residency districts, properly apportioned districts would result in one district with a substantial black majority of population and voter registration. Our analysis has also revealed evidence of racially polarized voting, non-responsiveness on the part of commission members to the particularized needs of the black community, and other factors which, in the context of a history of racial discrimination in the county, indicate that the at-large election system enacted by Act No. 136 (1969) denies black voters equal access to the county government. Rogers v. Lodge, _____ U.S. _____ (July 1, 1982).

Under Section 5 of the Voting Rights Act the submitting authority has 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); 28 C.F.R. 51.39(e). In light of the considerations dicussed above, I cannot conclude, as I must under the Voting Rights Act, that that burden has been sustained in this instance. Accordingly, I must, on behalf of the Attorney General, interpose an objection to the change to at-large elections for the Butler County Commission provided by Act No. 136 (1969).

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 (28 C.F.R. 51.44) 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 to at-large elections legally unenforceable.

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

Sincerely,

Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division