



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

October 19, 1982

Lynda F. Knight, Esq.  
Assistant Attorney General  
250 Administrative Building  
64 North Union Street  
Montgomery, Alabama 36130

Dear Ms. Knight:

This is in reference to five acts of the Legislature of the State of Alabama relating to the conduct of voter registration in Mobile 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. These five acts are: Act No. 122 (1972), Act No. 884 (1978), Act No. 81-740, Act No. 82-374, and Act No. 82-377. The submission of Act No. 122 (1972) and Act No. 884 (1978) was received on July 26, 1982. As our letter of September 24, 1982, indicated, information enabling us to review these acts was received on August 20, 1982. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.37). A partial response to our requests for additional information with respect to Act No. 81-740, Act No. 82-374, and Act No. 82-377 was received on August 20, 1982.

The Attorney General does not interpose any objections to the voting changes contained in Act No. 122 (1972), Act No. 884 (1978), and Act No. 82-374. 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 these changes. See also 28 C.F.R. 51.48.

With regard to the changes involved in Act No. 81-740 and Act No. 82-377, we note at the outset that under Beer v. United States, 425 U.S. 130, 141 (1976), preclearance must be denied

to a voting procedure change "that would lead to a retrogression in the position of racial minorities with respect to their effective exercise of the electoral franchise." Our analysis shows that the changes in voter registration procedures contained in these two acts cumulatively may have such a retrogressive effect in the context of current voter registration practices in Mobile County.

Section 1 of Act No. 81-740 prohibits the Board of Registrars of Mobile County from registering any voters during the fifteen-day period prior to an election. Under prior law such registration was permitted up until ten days prior to an election. Because the board does not register voters on Sunday and usually does not register voters on Saturday, the practical effect of this provision will be to implement a deadline for registration prior to an election that is one week earlier than it has been in the past.

We have received no information to justify the need for the five extra working days to prepare for an election beyond what has been required in the past and beyond what most Alabama counties use. On the other hand, it appears that the registration rate for blacks in Mobile County is lower than that for whites, that registration opportunities in Mobile County are relatively limited, and that interest in voter registration among blacks is greatest shortly before an election. Thus, the expansion of the cut-off period for registration would likely impact most heavily upon black potential voters.

The final sentence of Section 2(a) of Act No. 82-377 states that a person who requests the board of registrars to conduct voter registration outside the courthouse "shall be responsible for furnishing an appropriate facility and notice and publicity announcing the visit." This would appear to place a burden on persons requesting voter registration at locations other than the county courthouse that did not previously exist and which does not exist in other Alabama counties. Given the large land area of Mobile County, the county's large voting age population, the failure of the county to provide deputy registrars, and the requirement of decennial reidentification, it would appear that a registration program that does not offer a continuing reasonable opportunity for county residents to register on a decentralized basis imposes a serious burden on persons not registered. Because the registration percentage of blacks in Mobile County appears to be substantially lower than that of whites, the burden of a change that will have the effect of reducing voter registration opportunities on

a decentralized basis likely would fall more heavily on blacks than on whites.

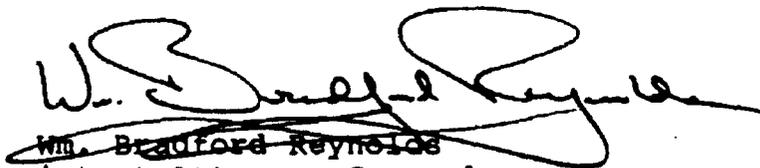
Section 2(c) of Act No. 82-377 states: "In the last month immediately preceding an election, all registration shall be at Mobile County courthouse." This provision likewise places a limitation on decentralized registration that did not previously exist and which does not exist in other Alabama counties. While such a restriction may be reasonable in the context of a registration system that permits ample opportunities for voter registration at other times, i.e., retention of the ten-day deadline and provision for decentralized registration at the initiative and expense of the registration board, in the context of the limited registration opportunities now provided by Mobile County this requirement would appear to add cumulatively to an unreasonable limitation on the registration process in Mobile County.

In these circumstances, I cannot conclude under the Voting Rights Act, that the changes involved in Act No. 81-740, and Act No. 82-377 will not have a retrogressive effect on the ability of blacks to register to vote. Therefore I must, on behalf of the Attorney General, interpose an objection to these changes.

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, color or membership in a language minority group. In addition, the Procedures for the Administration of Section 5 (28 C.F.R. 51.44) permits 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. 81-740 and Act No. 82-377 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 the State of 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 (202-724-8388), Director of the Section 5 Unit of the Voting Section.

Sincerely,

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

cc: Ms. Euber R. Collins  
Chairperson, Mobile County  
Board of Registrars

Mr. Bay Haas  
Chairman, Mobile County Commission