

SW Obj. #2
T. 8/30/85 Re.T. 9/25 Re.T. 10/10
Re.T. 10/11 Re.T. 10/15
WBR:JKT:CGL:sw:mmw
DJ 166-02-3
D0725
J9603

October 15, 1985

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Assistant Attorney General
250 Administrative Building
64 North Union Street
Montgomery, Alabama 36130

Richard H. Ramsey, III, Esq.
Houston County Attorney
P. O. Box 1825
Dothan, Alabama 36302

Dear Ms. Oswald and Mr. Ramsey:

This refers to the permanent adoption of an at-large election system with numbered positions for the Houston County Commission and to Act No. 84-571 of the 1984 Alabama Legislature, prescribing four candidate residency districts and an at-large chair for the County Commission of Houston County, Alabama, submitted pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. The submission of the adoption of an at-large system initially was received on June 9, 1980; we requested additional information on July 24, 1980. The submission of Act No. 84-571 was received on June 29, 1984; additional information was received on July 25 and August 22, 1985, and we received notification that the information was intended to pertain to both changes on September 11, 1985.

To obtain the requested Section 5 preclearance the submitting authority has the burden of showing that the submitted voting changes do not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color. See, e.g., Georgia v. United States, 411 U.S. 526 (1973); Beer v. United States, 425 U.S. 130, 141 (1976); 28 C.F.R. 51.39(c).

In carrying out our analysis, we have given careful consideration to the materials you have submitted, as well as information and comments from other interested parties. We note that over 22 percent of Houston County's population is black and that black citizens began to register to vote in substantial numbers shortly before the county decided to adopt the at-large election structure. Under the at-large structure no black candidate has been elected to the county commission and a strong pattern of racial bloc voting in local contests seems to exist. At the same time, the county's black population is highly concentrated, so that under a neutrally apportioned single-member district election plan it is likely that in one district black citizens would constitute a substantial majority of the population.

Under these circumstances, the at-large system, whether with numbered positions as originally implemented, or with candidate residency requirements, as provided for in Act No. 84-571, does not offer black voters an opportunity to participate in the electoral process comparable to that which would be afforded if the county were to utilize a neutrally apportioned single-member district election system.

In addition, the information submitted reveals that both the county's determination to use the at-large system on a permanent basis and the adoption of the 1984 provision for candidate residency districts occurred with no opportunity for effective black participation. We also understand that the 1984 enactment actually resulted from an aborted effort to return to a single-member district election plan which, for unexplained reasons, was converted to an at-large election plan during the legislative process.

In light of the considerations discussed above I cannot conclude that the Section 5 burden has been sustained in this instance. Accordingly, I must, on behalf of the Attorney General, object to the permanent adoption of the at-large election system with numbered positions, and to Act No. 84-571 which continues at-large elections with four candidate residency districts.

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. However, until the objection is withdrawn or a judgment from the District of Columbia Court is obtained, the effect of the objection by the Attorney General is to make the changes in the method of election 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 Houston County and the State of Alabama plans to take with respect to this matter. If you have any questions, feel free to call Sandra S. Coleman (202-724-6718), Director of the Section 5 Unit of the Voting Section.

Sincerely,

Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division