

FEB 2 1981

Sam L. Brannen, Esq.
Johnston, Brannen, Franklin, Roach
& Taulbee
23 Courtland Street
P. O. Box 327
Statesboro, Georgia 30458

Dear Mr. Brannen:

This is in reference to the change in terms of office for the mayor and councilmembers of the City of Statesboro in Bulloch County, Georgia, (Act No. 109, Georgia Laws 1966), submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended. Your submission was completed on December 2, 1980.

We have carefully reviewed the information that you have provided us, as well as comments provided by other interested parties. Our analysis reveals that blacks constitute about 40.7 percent of the population of the City of Statesboro. Although a black candidate has run for city council on a number of occasions since 1965 under the city's at-large method of election (with staggered terms and majority vote and numbered post requirements), no black has ever been elected. Analysis of election returns reveals that voting in the city generally follows racial lines. We also noted that this change to increase the terms of office was enacted immediately following the first black's bid for office in 1965 and during a period when, according to 1960 Census data, blacks appear to have constituted a majority of the city's population.

The increase in terms of office for the mayor and councilmembers, by decreasing the frequency of elections, along with the continued utilization of a system of voting which includes majority vote, numbered posts, and at-large election, enhances the disadvantage faced by blacks in seeking to elect representatives of their choice. We have also considered the action of the City

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of Statesboro in its annexation policy. This includes the 1967 annexation to which we did not interpose an objection in 1979, but which we indicated in our letter of December 10, 1979, should have been the subject of an objection, and the annexations submitted for preclearance on August 13, 1979 and June 16, 1980, to which we objected on December 10, 1979, and August 15, 1980, respectively. As we stated in both letters of objection, the dilutive effect of the 1967 annexation could be removed by the adoption of a different system of conducting elections and by annexing the predominantly black Whitesville area. The continuation of the dilutive effect of the prior annexation, combined with the majority vote, numbered posts, and at-large election requirements perpetuates a method of election, when measured in its totality, which disadvantages blacks. The lengthening of the terms of office adds still another burden on the ability of blacks to fully participate in the electoral process. Finally, in 1970, the Supreme Court in Perkins v. Matthews, 400 U.S. 379, 393 indicated that changes enacted by the State of Georgia which increase the terms of office of municipal officials are subject to submission under the 1965 Act; we note that Statesboro has been enforcing this change since that time and only submitted after receiving our letter of March 18, 1980.

Under the circumstances described above, we are unable to conclude that the city has carried its burden of proving that the change has neither a discriminatory purpose or effect. Therefore, on behalf of the Attorney General, I must object to the increase in terms of office for the mayor and councilmembers.

The city is not without remedy, however. The retrogressive affect upon black voters of an increase in the terms of office could be compensated by a change in the method of electing city councilmembers that might provide a more realistic possibility of access by blacks to the political process. For example, were the city to enact fairly drawn single-member districts in conjunction with

the increase in terms of office for the mayor and councilmembers from two to four year terms, the Attorney General would be willing to withdraw the objection interposed today.

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. 51.21(b) and (c), 51.23, and 51.24) 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 increase in the terms of office for mayor and councilmembers from two to four year terms 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 what course of action the City of Statesboro 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) of our staff.

Sincerely,

James P. Turner
Acting Assistant Attorney General
Civil Rights Division