

OCT 29 1973

Mr. Robert D. Lawrence, Jr.
Chairman
Bogalusa Charter Commission
121 Ruth Robinson Parkway
Bogalusa, Louisiana 70427

Dear Mr. Lawrence:

This is in response to your submission of the Proposed Home Rule Charter for the City of Bogalusa, Louisiana pursuant to Section 5 of the Voting Rights Act of 1965.

On the basis of our review and analysis of the submission, with the exception of Section 2-01 of Article II, the Acting Attorney General does not interpose an objection to the changes involved. With respect to these changes, we feel a responsibility to point out that Section 5 of the Voting Rights Act expressly provides that our failure to object does not bar any subsequent judicial action to enjoin the enforcement of these acts should such action become necessary.

Section 2-01 of Article II requires that candidates for City Council must qualify for a particular district even though they must run at-large. Our analysis has shown that where there is increasing participation in the political process by the black community, as in Bogalusa, the utilization of residency requirements in an at-large election system, which requires only a plurality for election,

has the effect of diluting the potential for minority electors to elect candidates of their choice. This result is even more prevalent when a state, such as Louisiana, has an anti-single shot (full slate) voting Requirement.

Recent court decisions dealing with voting issues of this nature, and to which we feel obligated to give great weight, indicate that the use of residency requirements under circumstances such as those involved here has the effect of abridging minority voting rights. Zimmer v. McKeithen, et al., (C.A. 5, No. 71-2649, Sept. 12, 1973); White v. Regester, 37 L.Ed. 2d 314 (1973); Whitcomb v. Chavis, 403 U.S. 124 (1971).

These cases also suggest that a state and its political subdivisions which utilize an at-large voting system may have an affirmative duty to eliminate or sufficiently modify that system of election to insure that minority groups will be fairly represented in the election process.

On the basis of these court decisions and all the available facts and circumstances, the Acting Attorney General is unable to conclude, as he must under the Voting Rights Act, that the change involving the implementation of residency requirements in an at-large election system will not have a discriminatory racial effect on voting. Therefore, the Acting Attorney General must interpose an objection to the implementation of Section 2-01 of Article II. However, while objecting to the superimposition of a residency requirement upon an election system with pre-existing at-large, full slate and plurality features, we wish

to point out that the Acting Attorney General does not interpose any objection to Section 2-02 and, more specifically, to those provisions establishing the five election districts for Bogalusa.

Of course, as provided for by Section 3, you have the alternative of instituting an action in the United States District Court for the District of Columbia for a declaratory judgment that the change does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color.

Sincerely,

J. STANLEY POTTINGER
Assistant Attorney General
Civil Rights Division