



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

1 MAR 1982

William B. Trevorrow, Esq.
Guilford County Attorney
Post Office Box 3427
Greensboro, North Carolina 27402

Dear Mr. Trevorrow:

This is in reference to the establishment of residency districts for the election of commissioners in Guilford County, North Carolina, 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 December 30, 1981.

We have given careful consideration to the information which you have provided, as well as information and comments from other interested parties. In the course of our analysis, we have noted particularly the use of "single shot" voting in Guilford County elections, the existence of racially polarized voting and the maintenance of an at-large election system.

The proposed residency districts would operate essentially as numbered posts, separating what would otherwise be one contest for several seats into several individual election contests. When placed in the context of an at-large election system and the presence of racially polarized voting, the imposition of residency districts significantly decreases opportunities for minority voters to elect a representative of their choice. As the United States District Court for the Eastern District of North Carolina has noted:

In a true at large election, if the majority spreads its votes around and the minority single shot votes, the minority strength is concentrated, thus increasing their chance of electing. However, if the minority candidate is forced to run against a specific candidate for a specific seat, the majority can readily identify for whom they must vote in order to defeat the minority candidate.

Dunston v. Scott, 336 F. Supp. 206, 213 n. 9 (E.D. N.C. 1972.)

Furthermore, we note that the county's stated purpose in establishing residency districts for its commissioner posts is to guarantee county-wide representation on the county commission. While that purpose is certainly a legitimate one, there are other means of altering the election scheme, such as a single-member district election system, that will not, as the imposition of residency districts would do, result in a "retrogression" for Guilford County's black voters. See Beer v. United States, 425 U.S. 130 (1976).

Under Section 5 of the Voting Rights Act the submitting authority has the 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). see also Section 51.39(e) of the Procedures for the Administration of Section 5 (46 Fed. Reg. 878). In light of the considerations discussed above, I cannot conclude, as I must under the Voting Rights Act, that that burden has been sustained in this instance.

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 (Section 51.44, 46 Fed. Reg. 878) 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 is obtained, the effect of the objection by the Attorney General is to make the establishment of residency districts for the election of commissioners in Guilford, North Carolina, 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 of the course of action Guilford 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