

SEP 3 1974

JSP:AMP:mrk
DJ 166-012-3

Honorable Daniel W. Moore
Attorney General
State of South Carolina
Post Office Box 11979
Columbia, South Carolina 29211

Dear Mr. Attorney General:

This is in reference to H-1445, a bill which changes the county government of Bamberg County, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965. Your submission was received on July 22, 1974. In accordance with your request, expedited consideration has been given to this submission pursuant to the procedural guidelines for the administration of Section 5 (28 C.F.R. 51.22).

We have considered the submitted plan along with Census Bureau data and information and comments from interested parties. We note that the submitted plan provides for an at-large voting system used in conjunction with staggered terms and residency requirements.

Recent court decisions suggest that the reduction of the field of candidates which results from the utilization of residency requirements and members being elected on a staggered basis in the context of at-large elections under circumstances as they exist in Bamberg County would operate to minimize or dilute the voting strength of racial minorities and, thus, have an invidious discriminatory effect. See White v. Regester, 412 U.S. 755 (1973); Whitcomb v. Chavis, 403 U.S. 124 (1971); Zimmer v. McKeithen, 485 F.2d 1297 (5th Cir. 1973); Beer v. United States, Civ. No. 1495-73 (D. D.C., March 14, 1974).

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In view of these court decisions and on the basis of all the available facts and circumstances, the Attorney General is unable to conclude, as he must under the Voting Rights Act, that Section 2 of R-1445 will not have a discriminatory racial effect on voting rights. Therefore, on behalf of the Attorney General, I must interpose an objection to the implementation of the change insofar as it requires residency requirements and staggered terms in conjunction with the election of candidates at-large.

Of course, Section 5 permits you to seek a declaratory judgment from the United States District Court for the District of Columbia that this plan neither has the purpose nor will have the effect of denying or abridging the right to vote on account of race or color. However, until such a judgment is rendered by that court, the legal effect of the objection by the Attorney General is to render unenforceable the staggered terms, residency requirement, and the at-large voting to the extent mentioned above.

Sincerely,

J. STANLEY POTTINGER
Assistant Attorney General
Civil Rights Division