

OCT 1 1976

Ms. Treva Ashworth
Assistant Attorney General
State of South Carolina
Wade Hampton Office Building
Post Office Box 11549
Columbia, South Carolina 29211

Dear Ms. Ashworth:

This is in reference to the Acts of the South Carolina General Assembly bearing Ratification Numbers R1020 (1974), R54 (1975), R646 (1976), and R681 (1976), all pertaining to the trustees of Sumter School District No. 2, Sumter County, South Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended. Your submission was completed on August 2, 1976.

The Attorney General does not interpose any objection to R1020 (1974), providing for an elective system with multi-member districts and four-year staggered terms, and an increase in the number of trustees from five to seven; to R646 (1976), providing for a November election date for school trustees; nor to R54 (1975), extending the terms due to expire in 1975 until the 1976 election. However, we feel a responsibility to point out that Section 5 of the Voting Rights Act expressly provides that the failure of the Attorney General to object does not bar any subsequent judicial action to enjoin the enforcement of such change.

With respect to R681 (1976), changing the method of election to an at-large system with residency requirements and one appointive position, we have carefully considered the information provided in your submission, as well as comments from interested parties, and relevant decisions of the federal courts. We have noted particularly information concerning the predominantly white appointive body prior to 1974, and the election of black candidates under the 1974 multi-member district system. Additionally, we have not been apprised of any compelling reasons for the use of the candidate residency districts with at-large voting in lieu of the multi-member district method.

The use of the candidate residency districts in effect creates separate offices and permits each voter to vote for only one candidate in each place. In the context of an at-large electoral system, the opportunity for minority voters to elect a representative of their choice to the board of trustees is significantly lessened (Sumston v. Scott, 336 F.Supp. 206, 213, n.9 (D.D.N.C. 1972)).

For these reasons, we are unable to conclude, as we must under the Voting Rights Act, that the 1976 change in form of election of the Board of Trustees of Sumter School District No. 2 will not have a discriminatory effect. Therefore, I must, on behalf of the Attorney General, interpose an objection under Section 5.

Of course, Section 5 permits you to seek a declaratory judgment from the United States District Court for the District of Columbia that this change neither has the purpose nor the effect of denying or abridging the right to vote on account of race or color.

However, until such judgment is rendered by that Court, the legal effect of the objection by the Attorney General is to render that provision unenforceable.

Sincerely,

J. Stanley Pottinger
Assistant Attorney General
Civil Rights Division