

SEP 4 1979

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

Dear Ms. Ashworth:

This is in reference to Act R82 (1979) devolving the authority to levy taxes for school purposes to the Colleton County Council, Colleton 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 July 6, 1979.

We have given careful consideration to the information furnished by you as well as information and comments from interested parties. According to our information, the county council previously had limited taxing power and was appointed by the county legislative delegation. Under "home rule", however, the county council now has the authority to levy county taxes. Act R82 would transfer the power to levy school taxes as well from the Colleton County state legislative delegation to the county council.

Act 780 (1966) and the adoption of the council-supervisor form of government with an at-large electoral system, to which the new power will be transferred, were objected to pursuant to Section 5 by the Attorney General on February 6, 1978. This objection was enforced by a three-judge federal court in United States v. The Board of Commissioners of Colleton County, South Carolina, et. al., C.A. No. 78-903 (D.S.C.). In its order of March 7, 1979 the court enjoined all future elections under the present electoral system, ordered a referendum to select one of the alternative forms of government under the Home Rule Act, and ordered submission pursuant to Section 5 of the form of government chosen in the referendum. To date no alternative form of government has been selected. Thus, the transfer of power proposed is to a governmental system which has not been precleared under Section 5. In addition, the transfer is away from the county legislative delegation, a group which may be more responsive to the concerns of blacks than the current county council elected at-large.

cc: Public File

DREW S. DAVIS III
Assistant Attorney General
Civil Rights Division

Sincerely,

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) 28 C.F.R. 21.7. 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.

Accordingly, on behalf of the Attorney General I must interpose an objection to Act R-2 (1979), depriving the authority to levy taxes for school purposes to the Colleton County Council, Colleton County, South Carolina.

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 or color. In addition, the Procedures for the Administration of Section 5 (28 C.F.R. 21.20) and (c), 21.23, and 21.24 permit you to request the Attorney General to reconsider the objection. Such a request would be particularly appropriate after the outstanding objection to the method of election of the county council has been resolved. 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 change required by Act R-2 legally unenforceable.

19 DEC 1979

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

Dear Ms. Ashworth:

This is in reference to your request for reconsideration of the objection interposed on September 4, 1979, pursuant to Section 5 of the Voting Rights Act as amended, to Act R82 (1979) devolving the authority to levy taxes for school purposes to the Colleton County Council in South Carolina. Your request was received September 20, 1979, and as you requested, final consideration held in abeyance until the October 23, 1979 referendum election in Colleton County on their method of election.

Our objection to R82 (1979) was based on an objection interposed on February 6, 1978 to Act 780 (1966) and the adoption of the council-supervisor form of government with an at-large electoral system, to which the new power would be transferred.

The result of the referendum election held October 23, 1979 provides for at-large elections to which an objection has been interposed today. Thus we have not found a basis for the withdrawal of the Attorney General's objection. Therefore, on behalf of the Attorney General, I must decline to withdraw the objection.

cc: Public File

Of course, Section 5 permits you to seek a declaratory judgment from the District Court for the District of Columbia that this enactment has neither the purpose nor the effect of denying or abridging the right to vote on account of race or membership in a language minority group irrespective of whether the change has previously been submitted to the Attorney General. As previously noted, until such a judgment is rendered by that court, the legal effect of the objection by the Attorney General is to render the change in question 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 Colleton County plans to take with respect to this matter. If you have any questions concerning this letter, please feel free to call Ms. Hallue Wright (202--724-7170) of our staff, who has been assigned to handle this submission.

Sincerely,

DREW S. DAYS III
Assistant Attorney General
Civil Rights Division