

26 SEP 1979

Ms. Treva G. Ashworth
Senior 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 Act R293 of the 1979 South Carolina General Assembly, which provides for the holding of elections for Chester County council members not later than December 1, 1979, or if not held by that date, for the holding of county council elections at the time of the 1980 General Election, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended. Your submission was received on August 27, 1979. In accordance with your request expedited consideration has been given this submission pursuant to the procedural guidelines for the administration of Section 5 (28 C.F.R. 51.22).

We have been informed that the Chester County Council has decided not to hold elections in 1979. As a result, the effect of Act R293 (August 21, 1979) is to mandate the next election of the Chester County Council in November, 1980.

On October 28, 1977, the Attorney General objected to the change from single-member districts to at-large elections in Chester County. This objection was enforced in United States v. County Council of Chester County, Civ. Action No. 78-881 (D. S.C. June 8, 1978). Subsequently the South Carolina General Assembly enacted R248 (1979), which established single-member districts for Chester County to be implemented on the second Tuesday in November, 1979. This statute was preclared pursuant to Section 5 on August 21, 1979.

cc: Public File

Since the county council has chosen not to conduct elections in 1979, Act R293 operates to extend the terms of those holding over in office, who were elected under the objected to at-large method of election. My October 28, 1977 letter of objection stated that the Attorney General was unable to conclude that the change to at-large elections would not have a racially discriminatory effect in Chester County. Thus, Act R293 has the effect of extending the term of office for another year of those county council members elected under a plan which was illegally implemented in violation of Section 5 and which may deny meaningful access to the political process to the black residents of Chester County.

Accordingly, on behalf of the Attorney General, I must object to the operation of Act R293 inasmuch as it extends the term of office by one additional year of those elected under the at-large system in violation of Section 5.

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. 51.21(b) and (c), 51.23, and 51.24) 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 obtained, the effect of the objection by the Attorney General is to make the extension of the terms of those holding over on the Chester County Council for one additional year legally unenforceable.

To enable this Department to meet its responsibility to enforce the Voting Rights Act, please inform us immediately upon receipt of this letter of the course of action the State of South Carolina and Chester County plan to take with respect to this matter. If you have any questions concerning this letter, please feel free to call John P. MacCoon, Director of the Section 5 Unit, at 202--724-7439.

Sincerely,

Drew S. Days III
Assistant Attorney General
Civil Rights Division