



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

August 23, 1982

C. Havird Jones, Jr., Esq.  
Assistant Attorney General  
P.O. Box 11549  
Columbia, South Carolina 29211

Dear Mr. Jones:

This is in reference to Act No. R398 (1982), which abolishes the county board of education and superintendent of education and changes the method of selecting the members of the boards of education for Districts 1 and 2 from appointive to elective in Hampton County, South 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 received on June 22, 1982. Although we noted your request for expedited consideration, we have been unable to respond until this time.

Under Section 5 of the Voting Rights Act, the submitting authority has the burden of showing that a submitted change has no discriminatory purpose or effect. See Georgia v. United States, 411 U.S. 526 (1973); see also the Procedures for the Administration of Section 5 (28 C.F.R. 51.38). In reaching our determination in this matter, we have considered carefully all of the information provided with your submission as well as information from other interested parties.

Hampton County has a population that is 52 percent black. The county board of education, until now appointed, will be elected beginning in November of this year, a change precleared by this office on April 28, 1982. Under the current proposal, the boards of education for Districts 1 and 2 are also to be elected (rather than appointed) in the future. Based on the information submitted by the State, we are persuaded that this change in the District 1 and 2 Boards does not have either the purpose or effect of discriminating on the basis of race.

We cannot reach a like conclusion, however, with respect to the proposal to terminate the county board. Our analysis shows that the county board has been particularly responsive to the interests and needs of the black community

in Hampton County and consistently has appointed bi-racial representation on the local boards of trustees for both School District 1 and School District 2. We remain unsatisfied on the information submitted by the State that elimination of the county board -- in a county with a 52-percent black population and a system which allows the use of a plurality and single-shot method of election -- does not deprive black voters of an opportunity to elect representatives of their choice who can help assure that interests of blacks will be protected on a county-wide basis.

Under these circumstances, I cannot conclude, as I must under the Voting Rights Act, that the burden of showing that these changes will not be discriminatory toward blacks has been sustained. Therefore, on behalf of the Attorney General, I must object to Act No. R398 (1982).

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 these changes have 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 (28 C.F.R. 51.44) 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 Act No. R398 legally unenforceable. See also 28 C.F.R. 51.9.

To enable this Department to meet its responsibility to enforce the Voting Rights Act, please inform us of the course of action the State of South Carolina 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



U.S. Department of Justice

Civil Rights Division

DJ 166-012-3  
G0258-0262

Office of the Assistant Attorney General

Washington, D.C. 20530

19 NOV 1982

C. Havird Jones, Jr., Esq.  
Assistant Attorney General  
State of South Carolina  
P. O. Box 11549  
Columbia, South Carolina 19111

Dear Mr. Jones:

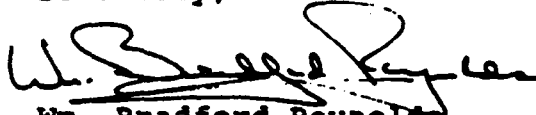
This is in reference to your request that the Attorney General reconsider his August 23, 1982, objection under Section 5 of the Voting Rights Act of 1965, as amended, to Act No. R398 (1982), which abolishes the county board of education and superintendent of education and changes the method of selecting members of the boards of education for Districts 1 and 2 from appointive to elective in Hampton County, South Carolina. Your letter was hand delivered on September 1, 1982, along with information provided by Representative McTeer during a conference with departmental staff on that date. Information necessary for our reconsideration of the objection was also provided by Attorney John P. Linton on September 15, 1982.

We have reviewed carefully the information that you have provided to us, as well as comments and information coming to our attention from other sources. As a result of this analysis, we find that the concerns we initially had and which formed the basis for the August 23 objection to the abolishment of the county board have now been allayed.

Our major concern related to the apparent interest in portions of the black community to attempt to consolidate the two school districts and the effect of elimination of the county board as the authorizing body of any potential consolidation. A reappraisal of South Carolina law, however, establishes that the county board lacks authority to effect a consolidation and its abolition, therefore, will not have the potentially discriminatory impact we had initially perceived. In addition, although the county board had a fruitful relationship with the black community, its abolition will not prevent meaningful participation in school affairs. More recent information shows that black residents in both districts are well represented at all levels of administration and operation.

Accordingly, pursuant to the reconsideration guidelines promulgated in the Procedures for the Administration of Section 5 (28 C.F.R. 51.47), the objection interposed to the changes affecting voting contained in Act No. R398 (1982) is hereby withdrawn. 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 changes. See also 28 C.F.R. 51.48.

Sincerely,

A handwritten signature in black ink, appearing to read "Wm. Bradford Reynolds", written over a horizontal line.

Wm. Bradford Reynolds  
Assistant Attorney General  
Civil Rights Division

cc: John P. Linton, Esq.  
Sinkler, Gibbs & Simons .