



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20035

DEC 13 1994

C. Havird Jones, Jr., Esq.
Assistant Attorney General
Public Interest Litigation
P.O. Box 11549
Columbia, South Carolina 29211-1549

Dear Mr. Jones:

This refers to Act R.631 (1994), which provides for the abolishment of the elected Spartanburg County Board of Education and its replacement with the appointed Spartanburg Education Oversight Committee for the Spartanburg County School District in Spartanburg 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. We received your responses to our August 15, 1994, request for additional information on October 14 and November 29, 1994; supplemental information was received on November 30 and December 1 and 5, 1994.

We have carefully considered the information you have provided, as well as Census data and information and comments from other interested parties. According to the 1990 Census, the county has a total population of 226,800 persons, of whom 20.6 percent are black. Under the system of electing county school board members in effect prior to 1994, no black persons were elected to the county board of education, due largely to an apparent pattern of racially polarized voting. On April 26, 1994, a consent decree was entered in NAACP v. Spartanburg County Board of Education, C.A. No. 7:91-3111-20 (D.C.S.C., filed October 11, 1991), that changed the method of electing county board members from at-large elections within each local school district to sixteen single-member districts. Three of the single-member districts included majority black populations, so that black voters will have an opportunity to elect two or three seats on the sixteen-member body. On August 15, 1994, the Attorney General precleared this change in the method of electing the Spartanburg County Board of Education.

The state now proposes through Act R.631 to abolish the elected Spartanburg County Board of Education and replace it with an appointed Education Oversight Committee. The members of the Education Oversight Committee will be selected by a majority of the elected members of the county's seven local school boards, who are predominantly white. Under these circumstances, it appears that black voters will have considerably less influence over the selection of members of the Spartanburg County Education Oversight Committee through the choices of the appointing local school boards than they currently have under the direct-election system now in place for the Spartanburg County Board of Education, and will "lead to a retrogression in the position of . . . minorities with respect to their effective exercise of the electoral franchise." Beer v. United States, 425 U.S. 130, 141 (1976).

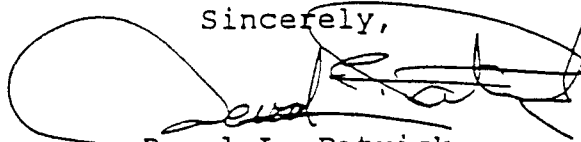
The sequence of events surrounding the adoption of Act R.631 also gives rise to an obvious inference of discriminatory purpose. Based on the information supplied by you and many others, we have not been persuaded that it is coincidental that the state abolished the county board only after a new method of election was in place that promised equal minority electoral opportunity, and replaced it with an appointed body on which minority voters will have little opportunity to influence appointments.

Under Section 5 of the Voting Rights Act, the submitting authority has the burden of showing that a submitted change has neither a discriminatory purpose nor a discriminatory 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. 51.52). The existence of some legitimate, nondiscriminatory reasons for the voting change does not satisfy this burden. See Village of Arlington Heights v. Metropolitan Housing Development Corp., 429 U.S. 252, 265-66 (1977); see also City of Rome v. United States, 446 U.S. 156, 172 (1980); Busbee v. Smith, 549 F. Supp. 494, 516-17 (D.D.C. 1982), aff'd, 459 U.S. 1166 (1983). In light of the considerations discussed above, I cannot conclude, as I must under the Voting Rights Act, that the state's burden has been sustained in ~~this~~ instance. Therefore, on behalf of the Attorney General, I must object to Act R.631, which replaces the previously elected county board of education with the appointed Education Oversight Committee.

We note that under Section 5 you have the right to seek a declaratory judgment from the United States District Court for the District of Columbia that the proposed 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, you may request that the Attorney General reconsider the objection. However, until the objection is withdrawn or a judgment from the District of Columbia Court is obtained, the change occasioned by Act R.631 (1994) continues to be legally unenforceable. Clark v. Roemer, 500 U.S. 646 (1991); 28 C.F.R. 51.10 and 51.45.

To enable us to meet our responsibility to enforce the Voting Rights Act, please inform us of the action the State of South Carolina plans to take on behalf of the Spartanburg County School District concerning this matter. If you have any questions, you should call Ms. Zita Johnson-Betts (202-514-8690), an attorney in the Voting Section.

Sincerely,

A handwritten signature in black ink, appearing to read "Deval L. Patrick", written over a horizontal line.

Deval L. Patrick
Assistant Attorney General
Civil Rights Division