



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20035

FEB 06 1995

Sandra Murphy Shelson, Esq.  
Special Assistant Attorney General  
P. O. Box 220  
Jackson, Mississippi 39205-0220

Dear Ms. Shelson:

This refers to Chapter 625 (1994), which provides that after July 1, 1997, a person shall be prohibited from serving both as a member of the legislature and as an elected member of any political subdivision of the State of Mississippi, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 452 U. S. C. 1973c. We received your submission on December, 1994; supplemental information was received on January 25, 1995.

We have given careful consideration to the information and materials you have submitted, as well as to comments and information from other interested parties. It appears that the proposed change was initiated principally by leaders of the white community of the City of Greenwood and Leflore County to prohibit a specific black leader of the city and county, David Jordan, from serving both in the Mississippi Senate and on the Greenwood City Council. We note that Mr. Jordan has been re-elected to the council since this controversy began, and by a considerable margin. Based on the information available to us, it appears clear that Mr. Jordan's race and his vigorous advocacy of the interests of his black constituents was a motivating factor behind the change. The proposed change would reduce the choices available to the black voters of his council and senate districts, and it appears that this effect was intended.

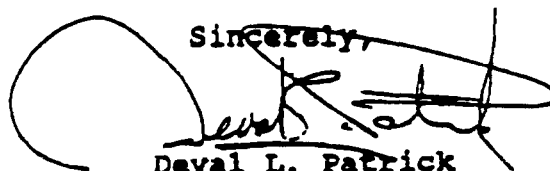
With regard to lawmakers holding dual offices, our analysis indicates that this change was adopted for racial discriminatory reasons, and that black voters will be adversely affected by this change.

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. 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). In light of the considerations discussed above, I cannot conclude, as I must under the Voting Rights Act, that your burden has been sustained in this instance. Therefore, on behalf of the Attorney General, I must object to Chapter 625 (1994), which prohibits lawmakers from holding dual offices in the State.

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 voting change incorporated within Chapter 625 (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 Mississippi plans to take concerning this matter. If you have any questions, you should call John K. Tanner (202-307-3143), Acting Chief of the Voting Section.

Sincerely,



Deval L. Patrick  
Assistant Attorney General  
Civil Rights Division