



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

18 NOV 1981

Honorable Daniel R. McLeod
Attorney General
Wade Hampton Office Building
Post Office Box 11549
Columbia, South Carolina 29211

Dear Mr. McLeod:

This is in reference to Act No. R249 (1981), providing for the reapportionment of the South Carolina House of Representatives. Your submission, pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c, was received on September 19, 1981, and supplemented thereafter with additional materials forwarded to us by Mr. Robert J. Sheheen, Chairman of the House Judiciary Committee.

We have given careful consideration to all of the forwarded materials, as well as other information available to us. The submitted reapportionment includes 124 single-member districts, the overwhelming majority of which are unobjectionable. We are, however, unable at this time to preclear the reapportionment plan since there are a limited number of districts which fail to satisfy the requirement under the Act that they be drawn in a manner that does not have a discriminatory effect.

Under Section 5, the State bears the burden of proving the absence of both discriminatory purpose and effect in the proposed House redistricting plan. City of Rome v. United States, 446 U.S. 156, 183 n.18 (1980); Beer v. United States, 425 U.S. 130, 140-41 (1976). In order to prove the absence of a racially discriminatory effect, the State of South Carolina must demonstrate, at a minimum, that the proposed House redistricting plan will not lead to "a retrogression in the position of racial minorities with respect to their effective exercise of the electoral franchise." Beer v. United States, supra, 425 U.S. at 141. While the State is

under no obligation to maximize minority voting strength, the State must demonstrate that the plan "fairly reflects the strength of [minority] voting power as it exists." Mississippi v. United States, 490 F. Supp. 569, 581 (D.D.C. 1979), citing Beer v. United States, *supra*, 425 U.S. at 139 n.11 and 141; and City of Richmond v. United States, 422 U.S. 358, 362 (1975).

On the basis of our review of the proposed reapportionment plan we find certain districts drawn in a manner that "would lead to a retrogression in the position of racial minorities with respect to their effective exercise of the electoral franchise." Beer v. United States, *supra*, 425 U.S. at 141. In this regard, we have carefully analyzed the submitted plan in comparison to the prior reapportionment plan as drawn in 1974. In examining the "old" plan, we have, as the law requires, viewed the districts "from the perspective of the most current available population data," City of Rome v. United States, *supra*, 446 U.S. at 186 (i.e., the 1980 census data). On that basis, we have found noticeable dilution or fragmentation of the minority vote in Florence County (Proposed District Nos. 59, 62, 63), Richland County (Proposed District Nos. 70, 72, 73, 74, 75, 76, 79), Lee County (Proposed District Nos. 50, 65, 66), Allendale-Bamberg-Barnwell Counties (Proposed District Nos. 90, 91), and Jasper-Beaufort Counties (Proposed District No. 122).

We are aware that alternate proposals were presented which would have avoided the fragmentation and dilution of minority voting strength in each of the referenced areas, and we have received complaints alleging that such alternate proposals were rejected for racially discriminatory reasons. Our own review has revealed that reasonably available alternative plans for each of these districts could be drawn which would avoid the fragmentation and dilution of minority voting strength and the State's submission offers no satisfactory explanation for, or governmental interest in, the rejection of such alternatives. In these circumstances, and in light of the existing patterns of racial bloc voting in South Carolina and the current underrepresentation of blacks in the South Carolina House of Representatives, we are unable to conclude that the State has met its burden of proving that the plan, at least as it affects the referenced areas, meets the requirements of the Act.

Since I am unable to conclude that Act No. R249 (1981) providing for the reapportionment of the South Carolina House of Representatives was enacted by the Legislature without a racially discriminatory purpose or effect, I must, on behalf of the Attorney General, interpose an objection to Act No. R249 pursuant to Section 5 of the Voting Rights Act of 1965.

Of course, as provided by Section 5 of the Voting Rights Act, you may seek a declaratory judgment from the United States District Court for the District of Columbia that the House reapportionment plan does not have the purpose and will not 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 (Sec. 51.44, 46 Fed. Reg. 878) permit you to request the Attorney General to reconsider the objection. Until the objection is withdrawn or unless a declaratory judgment from the District Court for the District of Columbia is obtained, the effect of the Attorney General's objection is to render the reapportionment of the South Carolina House of Representatives legally unenforceable.

If you have any questions concerning this letter, please feel free to call Carl W. Gabel (202-724-7439) Director of the Section 5 Unit in our Voting Section. You can be assured that we are prepared to assist you in any way possible in connection with your reapportionment efforts.

Sincerely,

A handwritten signature in black ink, appearing to read "Wm. Bradford Reynolds", with a stylized flourish at the end.

Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division



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25 FEB 1982

Honorable Robert J. Sheheen
Chairman, Judiciary Committee
South Carolina House of Representatives
P. O. Box 11867
Columbia, South Carolina 29211

Dear Mr. Sheheen:

This is in reference to your request that the Attorney General reconsider his November 18, 1981 objection under Section 5 of the Voting Rights Act of 1965, 42 U.S.C. 1973c, to the redistricting of the South Carolina House of Representatives. Your request was originally received on December 8, 1981, and was supplemented with additional information received on January 4, 1982.

We have carefully reviewed the information you have provided to us, as well as comments and information provided by other interested parties. With the exception of the Allendale, Bamberg, and Barnwell counties area, 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 to the other parts of the House redistricting plan to which an objection was interposed on November 18, 1981.

In the Allendale, Bamberg, and Barnwell counties area, our analysis of the redistricting plan shows that the State's plan would result in a two percent increase in black population percentage (from 56% to 58%) in the majority black district in this area. Although Allendale County's black voters have successfully elected a significant number of candidates to public office at the local level, we have no information that the black community in Allendale County has ever elected the candidate of its choice to the State House of Representatives. Moreover, black voters in Bamberg County have also elected candidates to local offices in that county, and it would appear that the House plan in that area would fairly recognize the potential of black voters in Bamberg County to elect the candidate of its choice from that district. Accordingly, our objection to that portion of the House redistricting plan affecting the Allendale, Bamberg, and Barnwell counties area, is hereby withdrawn.

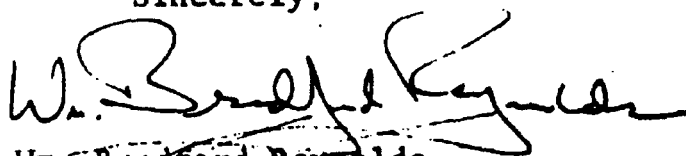
cc: Public File

As you know, over the past several months, attorneys in this Division have met with you and other representatives of the State to discuss proposed modifications to the House reapportionment plan. While we have been unable to give you any type of commitment on these proposals during our discussions, we hope our comments were useful to you.

It is our understanding that there are a number of proposed modifications to the House redistricting plan pending before the Legislature. It would appear that some of those changes, if enacted by the Legislature, might well remedy the objectionable features in the House plan. If you would provide us with the population data underlying these changes, including voting age population and registered voters by race in the newly-drawn districts, we will react to such proposals as quickly as possible. We are mindful of the candidate qualification period (March 15-31) that is rapidly approaching. To facilitate our consideration of any possible modifications in the House plan, I have asked Mr. Gerald W. Jones, Chief of our Voting Section, as well as members of his staff, to be prepared to discuss the specifics of any proposed changes and to give you our immediate but tentative reaction to them. If you wish, we will give you a written confirmation of our reactions, if that would expedite the legislative process.

We trust this arrangement will be satisfactory to you. You can be assured we will assist you in any way possible.

Sincerely,



W. Bradford Reynolds
Assistant Attorney General
Civil Rights Division