



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

27 APR 1984

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

Dear Mr. Jones:

This is in reference to the method of selecting members for the county board of education and the method of electing members to the four area boards of trustees (Act No. R282 (1984)) in Lancaster County, South Carolina, submitted to the Attorney General on February 27, 1984, pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c.

We have given careful consideration to the information you have provided, including information considered in our analysis of similar changes reviewed by us in 1974 and 1983. We also have considered relevant Bureau of the Census data and comments and information provided by other interested parties.

At the outset, we note that on July 30, 1974, the Attorney General interposed an objection to certain provisions of Act No. 1622 (1972), including the use of staggered terms in area board of trustee elections. Similar changes were contained in Act No. R700 (1976), to which an objection was interposed by the Attorney General under Section 5 on August 26, 1983. Thus, the use of staggered terms in trustee elections has been legally unenforceable throughout this period.

As we indicated on the occasions of our previous objections, the use of staggered terms in Lancaster County school board elections, where the at-large system is used and racial bloc voting seems to exist, limits the potential for black voters to participate effectively in the electoral process by

reducing the ability of those voters to use single-shot voting. Nothing has been presented to demonstrate that a like effect will not flow from implementation of the staggered terms provision at this time, and the county has advanced no compelling reason for further delaying the remedying of the impermissible implementation of staggered term elections that has taken place during the past eight years.

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) and the Procedures for the Administration of Section 5 (28 C.F.R. 51.39(e)). In light of the considerations discussed above, I cannot conclude, as I must under the Voting Rights Act, that that burden has been sustained in this instance. Therefore, on behalf of the Attorney General, I must object to any further use of staggered terms as provided for in Act No. R282 (1984).

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, Section 51.44 of the guidelines permits you to 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 effect of the objection by the Attorney General is to make the further use of staggered terms for school trustee elections 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 within fifteen days of the course of action Lancaster County plans to take with respect to this matter. If you have any questions, 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