



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

July 18, 1989

Mr. John P. Perry  
Beaufort County Administrator  
P. O. Drawer 1228  
Beaufort, South Carolina 29901-1228

Dear Mr. Perry:

This refers to the change in the method of electing county councilmembers from two-year, concurrent terms to four-year, staggered terms; the method of staggering; and the implementation schedule for Beaufort County, South Carolina. We received the information to complete your submission on May 19, 1989.

Section 5 of the Voting Rights Act places upon the submitting authority the burden of showing that the voting changes do not have a racially discriminatory purpose or effect. See, e.g., 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 (a)).

Regarding the change to four-year terms, the Attorney General does not interpose any objection to the change in question. 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 change. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.41).

With regard to the method of staggering the councilmembers, we are unable to conclude that the county has met its burden of showing that this change is free of a discriminatory effect. Under the county's method of staggering, elections for the three at-large seats on the county council would no longer be concurrent, but would be staggered one-two. In past elections for the at-large seats, racial bloc voting has been prevalent and blacks have relied on single-shot voting. Depending on the number of candidates in the future, it is conceivable that, with the retention of concurrent election of the three at-large seats, blacks could elect the candidate of their choice to one of those seats. However, the effect of the staggering would be virtually to eliminate that

possibility, because the staggering would reduce or negate the effectiveness of single-shot voting. A similar conclusion applies to the effect of staggering the three seats of the Beaufort District.

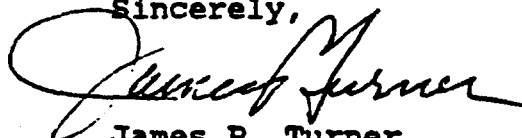
In view of the circumstances outlined above, we are unable to conclude that the county has met its burden of showing that the method of staggering would not have retrogressive effect. See Beer v. United States, 425 U.S. 130, 141 (1976). Accordingly, on behalf of the Attorney General, I must interpose an objection to the county's method of staggering.

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 the change neither has the purpose nor will have the effect of denying or abridging the right to vote on account of race or color. In addition, Section 51.45 of the guidelines permits you to request the Attorney General to 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 proposed method of staggering legally unenforceable. 28 C.F.R. 51.10.

To enable this Department to meet its responsibility to enforce the Voting Rights Act, please inform us of the course of action Beaufort County plans to take with respect to this matter. In that regard, we should advise you that, during the course of our review of the instant submission, we received allegations that, wholly apart from the submitted changes, the election system in Beaufort County violates Section 2 of the Act, since it results in an abridgement of the right of black persons to participate equally in the electoral process and elect candidates of their choice to office. You should be aware that we are undertaking a review of those concerns and will be in contact with you to discuss that matter further.

If you have any questions, feel free to call David Marblestone (202-724-3113), Attorney, Voting Section.

Sincerely,



James P. Turner  
Acting Assistant Attorney General  
Civil Rights Division