

APR 9 1976

Honorable Joseph B. Bumgardner
County Judge
County of Victoria
Victoria County Courthouse Building
Victoria, Texas 77901

Dear Judge Bumgardner:

This is in reference to the pending election pertaining to a proposed consolidation between the Victoria Independent School District and the Mission Valley Independent School District in Victoria County, Texas, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended. Your submission was received on February 2, 1976.

In examining the proposed consolidation, under Section 5 of the Voting Rights Act, it is incumbent on the Attorney General to determine whether the proposed change, either in purpose or effect, may result in racial or language minority group discrimination in voting. In making this evaluation we apply the legal principles which the courts have developed in the same or analogous situations. Moreover, it is also significant that Section 5 only prohibits implementation of changes affecting voting and provides that such changes may not be enforced without receiving prior approval by the Attorney General or by the District Court for the District of Columbia. Our proper concern

then is not with the validity of the proposed consolidation but with the changes in voting which proceed from it.

After a careful examination of the submitted change, including consideration of demographic and geographic data, and comments from interested parties, we cannot conclude, as we must under the Voting Rights Act, that the proposed consolidation will not have a discriminatory effect on either the Mexican-American or black communities in the Victoria Independent School District. According to the data we examined the Mission Valley Independent School District is predominantly white (Anglo) in population with a 7% Mexican-American population and a 4% black population. The Victoria Independent School District, by contrast, contains a 36% Mexican-American population and a 9% black population. Our information regarding elections in the Victoria Independent School District demonstrates that the school district elects its board of trustees at-large to seven numbered posts, and that there is a likelihood of racial ethnic bloc voting. Moreover, the information we examined indicates that the major portion of the black and Mexican-American population is located within the City of Victoria in cognizable residential areas.

Under the procedural guidelines for the administration of Section 5 the burden of proving that changes affecting voting have not had or will not have the purpose or effect of discriminating against racial or language minority groups lies with the submitting authority. 28 C.F.R. 51.19; Georgia v. United States, 411 U.S. 526 (1973). Under the circumstances described above, commensurate with our guidelines we cannot conclude that the proposed

consolidation, in the context of an at-large, numbered post election system, will not have a dilutive effect on the voting strength of blacks and Mexican-Americans in the Victoria Independent School District. Therefore, on behalf of the Attorney General, I must interpose an objection to the consolidation of the Victoria and Mission Independent School Districts.

While we are not aware of any court decision dealing specifically with a consolidation of this type, cases dealing with annexations are particularly pertinent since the change in voting effected in both cases is the same, *i.e.*, an alteration of a particular electorate. Supreme Court decisions which have considered the racially dilutive effect of annexations under Section 5 of the Voting Rights Act have held that such annexations can be approved only on the condition that modifications calculated to neutralize to the extent possible any adverse effect upon the minority voters are adopted, such as a shift from an at-large election system to a single member district election system. City of Richmond v. United States, 422 U.S. 356 (1975); City of Petersburg v. United States, 410 U.S. 962 (1973). In this connection, should the Victoria School District undertake to elect its board of trustees from single member districts the Attorney General will reconsider his determination in this matter. We note that it is our understanding that the establishment of single member districts in the Victoria Independent School District has been a topic of discussion in the past.

As set out in the Section 5 guidelines, 26 C.F.R. 51.23 and 51.24, we will examine any information not previously available to you in support of a request to reconsider the objection interposed above, including such information as the results of any studies or other documentation regarding the feasibility of creating single member districts in the Victoria Independent School District.

Of course, as provided by 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 consolidation has neither the purpose nor effect of denying or abridging the right to vote on account of race or color.

Sincerely,

J. Stanley Pottinger
Assistant Attorney General
Civil Rights Division

AUG 16 1976

Honorable Joseph B. Bumgardner
County Judge
County of Victoria
Victoria County Courthouse Building
Victoria, Texas 77901

Dear Judge Bumgardner:

This is in reference to the consolidation of Victoria Independent School District and Mission Valley Independent School District in Victoria County, Texas. The additional information needed to evaluate your request for reconsideration was received July 19, 1976.

We have given careful consideration to the new information furnished by you. On the basis of our analysis of this information, we have concluded that this change has neither the purpose nor will have the effect of denying or abridging the right to vote on account of race, color, or membership in a language minority group. I therefore, on behalf of the Attorney General, am withdrawing the previously interposed objection to the consolidation of Victoria and Mission Valley Independent School Districts. 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.

Sincerely,

J. Stanley Pottinger
Assistant Attorney General
Civil Rights Division

cc: Public File
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