



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

December 27, 1983

Mr. Jack R. Trammell  
Superintendent, Pewitt Consolidated  
Independent School District  
P. O. Box 1106  
Omaha, Texas 75571-1106

Dear Mr. Trammell:

This is in reference to the adoption of numbered positions by the Pewitt Consolidated Independent School District in Cass, Morris, and Titus Counties, Texas, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. We received the information to complete your submission on October 28, 1983.


We have given careful consideration to the information furnished by you as well as information and comments by interested parties. Our analysis reveals that blacks constitute a substantial proportion of the population of the Pewitt Consolidated Independent School District and that bloc voting along racial lines appears to exist. Even though blacks do not appear ever to have elected a candidate of their choice to office, under the existing system they do have a potential for doing so through the technique of single-shot voting. However, the addition of the numbered positions system by the district will in effect nullify the advantage of single-shot voting, thus making it more difficult for black voters to elect candidates of their choice. In such circumstances, the proposed change would lead to an impermissible retrogression in the position of minority voters contrary to the Voting Rights Act. See Beer v. United States, 425 U.S. 130 (1976).

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 or a discriminatory effect. See Georgia v. United States, 411 U.S. 526 (1973); see also 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 the imposition of numbered positions by the Pewitt Consolidated Independent School District.

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, color, or membership in a language minority group. 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 imposition of numbered positions legally unenforceable. 28 C.F.R. 51.9.

To enable this Department to meet its responsibility to enforce the Voting Rights Act, please inform us of the course of action the Pewitt Consolidated Independent School District 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