



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

FEB 3rd 1989

Richard Collins, Esq.
Duckett, Bouligny, Collins, Clapp
& Collins
P. O. Box 829
El Campo, Texas 77437

Dear Mr. Collins:

This refers to the proposed imposition of numbered positions and a majority-vote requirement for the three at-large city council positions for the City of El Campo in Wharton County, 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 your initial submission on December 5, 1988; supplemental information was received on December 19, 1988.

We have carefully considered the information you have submitted, as well as comments and information from other interested parties. 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); see also the Procedures for the Administration of Section 5 (28 C.F.R. 51.52). As noted in our previous letter to the city, under Beer v. United States, 425 U.S. 130 (1976), the absence of such an effect is shown only when it is demonstrated that there has been no retrogression in the political strength already attained by minorities in the electoral system.

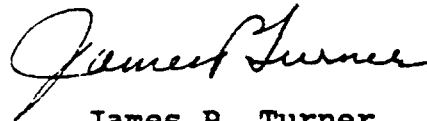
We note that, during the April 1988 city council election under the existing system with three at-large positions, but without numbered positions or a majority-vote requirement, minorities were able to elect candidates of their choice to two of the seven positions on the city council. One of those positions was in a predominantly minority district (District No. 2) where the minority candidate was unopposed, and the other was an at-large position where the minority candidate placed second in a field of five for the three at-large positions.

In comparison to the existing plan, the proposed changes, with the three at-large positions being elected from numbered positions and with a majority-vote requirement, appear to offer less opportunity for effective political participation by minority citizens. As was the case when we earlier objected to the incorporation of those features into the city's election system, in our view the use of numbered positions and a majority-vote requirement for the at-large positions would make it more difficult for minority citizens to elect candidates of their choice to these positions because it would eliminate the possibility of single-shot voting, a device which traditionally has been used by minorities to realize their voting potential in at-large election systems. Since the city has presented nothing to show that this is an unwarranted assessment, I am unable to conclude that the city has carried the burden imposed by Section 5. Accordingly, on behalf of the Attorney General, I must object to the use of numbered positions and a majority-vote requirement for the at-large positions.

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 these changes have neither the purpose nor 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 51.45 of the Section 5 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 use of numbered positions and a majority-vote requirement for the at-large positions 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 the City of El Campo plans to take with respect to this matter. If you have any questions, feel free to call Sandra S. Coleman (202-724-6718), Deputy Chief of the Voting Section.

Sincerely,



James P. Turner
Acting Assistant Attorney General
Civil Rights Division