



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

**MAY 7<sup>th</sup> 1990**

Stan Reid, Esq.  
Allison & Associates  
208 W. 14th Street  
Austin, Texas 78701

Dear Mr. Reid:

This refers to the June 26, 1980, transfer of registration duties from the county tax assessor/collector to the county clerk, and the September 26, 1987, transfer of registration duties from the county clerk to the county tax assessor/collector for San Patricio 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 the information to complete your submission on March 6, 1990.

The Attorney General does not interpose any objection to the 1980 transfer of registration duties from the county tax assessor/collector to the county clerk. 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 1987 action returning registration duties to the county tax assessor/collector, we have given careful consideration to the reasons advanced in support of the transfer, as well as the sequence of events leading to the commissioners court's decision to adopt the 1987 transfer of registration duties. The purposes of the transfer were said to be to correct the failure to submit the prior change for Section 5 review, to save the county money and to place the responsibility in more capable hands. The information available to us does not confirm such purposes. Rather, the record seems to establish that this transfer was directly in response to actions taken by the incumbent county clerk to assist this Department in carrying out its responsibilities under Section 5 in the review of the proposed consolidation of justice of the peace precincts, to which an objection was interposed on June 14, 1988.

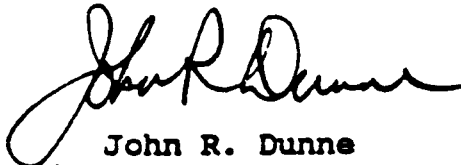
Under the Procedures for the Administration of Section 5, 28 C.F.R. 51.55, the Attorney General is to consider submissions in light of "constitutional and statutory provisions designed to safeguard the right to vote from denial or abridgement on account of race, color or membership in a language minority group." If, as seems to be the case, the responsibility for voter registration was removed from the county clerk in reprisal for that person's assistance to this office in its statutory responsibility to enforce the Voting Rights Act, it is not entitled to receive Section 5 preclearance.

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 nor a discriminatory effect. See Georgia v. United States, 411 U.S. 526 (1973); see also 28 C.F.R. 51.52. In light of the considerations discussed above, I cannot conclude, as I must under the Voting Rights Act, that the 1987 transfer of registration duties from the county clerk to the county tax assessor/collector meets these preclearance standards. Therefore, on behalf of the Attorney General, I must object to the 1987 transfer of registration duties from the county clerk to the county tax assessor/collector.

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 51.45 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 unprecleared change continues to be 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 San Patricio County 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 our Voting Section.

Sincerely,



John R. Dunne  
Assistant Attorney General  
Civil Rights Division