



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

MAR 13 1991

Analeslie Muncy, Esq.
City Attorney
City of Dallas
1500 Marilla, 7-B North
Dallas, Texas 75201

Dear Ms. Muncy:

This refers to charter amendments to Chapter XXIV, Section 21 (1-5) of the municipal charter, which delay the regular May 1991 municipal election until November 1991 or January 1992, based on certain conditions, and provide an implementation schedule therefor, for the City of Dallas in Collin, Dallas, Denton, Kaufman, and Rockwall 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 January 15 and February 26 and 28, 1991.

We have carefully reviewed the information you have provided, along with the information available to us from related Section 5 submissions by the city, the Bureau of the Census, and other interested parties. At the outset, we note that the instant submission is related to litigation by minority plaintiffs, in which the court has found that the existing 8-3 election method for the city council violates Section 2 of the Voting Rights Act and specifically has ordered that the regularly scheduled May 4, 1991, municipal election shall go forward under an interim remedial 14-1 election system. Williams v. City of Dallas, No. 3-88-1152-R (N.D. Tex.) (Mar. 28, 1990, liability) (Feb. 1, 4, 5 and 27, 1991, remedy). We further note that the district court's remedial orders are based, in part, on its observation of nearly one year ago, that "an interim City Council election must be held as soon as possible in order to remedy the adverse effects of the 8-3 system -- the denial of equal access to the City's political process -- which African and Mexican-Americans have suffered in Dallas, for some 10-15 years." Id. slip op. at 239 (Mar. 28, 1990) (emphasis in original).

The instant submission was designed as an adjunct to the proposal to change to a 10-4-1 method of election and its original purpose was to delay the May 4, 1991, election to allow the city to use 1990 Census data to prepare and submit

for preclearance a specific districting proposal. As you are aware, we are presently providing expedited consideration to such a proposal. Because of procedural reasons, however, the proposal to postpone the election date must be considered now, before we have had the opportunity to complete our consideration of the underlying plan it was designed to facilitate and on which it is wholly dependent. Given the state of the ongoing litigation, approval of a delay in the May 4, 1991, election would interfere with and perhaps frustrate the careful remedial plan ordered by the district court.

We are, of course, aware that the Williams defendants are seeking immediate appellate relief regarding the district court's remedial orders. We intend to monitor that litigation closely and consider whether any future orders by the appellate court might suggest revisions or modifications to our disposition of this matter. We also will review further this proposal to postpone the election should we conclude, upon completion of our analysis, that the 10-4-1 plan satisfies the requirements of Section 5.

In the meantime, and for the reasons stated above, it would be premature and disruptive to preclear the election date change under Section 5. Accordingly, I cannot conclude, as I must under the Voting Rights Act, that the city's burden of demonstrating that this proposed change has neither the purpose nor the effect of discriminating on the basis of race has been sustained in this instance. Therefore, on behalf of the Attorney General, I must object to the proposed charter amendments under Chapter XXIV, Section 21 (1-5), which provide for a delay of the regularly scheduled May 4, 1991, election and an implementation schedule therefor.

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 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, you may request that the Attorney General reconsider this objection. However, until the objection is withdrawn or a judgment from the District of Columbia Court is obtained, a delay in the regularly scheduled May 4, 1991, municipal election continues to be legally unenforceable. 28 C.F.R. 51.10 and 51.45.

To enable us to meet our responsibility to enforce the Voting Rights Act, please inform us of the action the City of Dallas plans to take concerning these matters. If you have any questions, you should call Lora L. Tredway (202/307-2290), an attorney in the Voting Section.

Sincerely,

A handwritten signature in cursive script, appearing to read "John R. Dunne".

John R. Dunne
Assistant Attorney General
Civil Rights Division