

27 SEP 1979

Mr. Perkins Wilson,  
Assistant Attorney General  
Commonwealth of Virginia  
Supreme Court Building  
111 East Broad Street  
Richmond, Virginia 23219

Dear Mr. Wilson:

This is in reference to Chapter 308 (S 628) (1979) which provides staggered terms for members of the council for the Town of Gretna, Pittsylvania County, Virginia, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended. Your submission was completed on August 2, 1979.

We have given careful consideration to the information furnished by the submitting authority and to comments from other interested parties. Our analysis reveals that under a staggered terms method of election, the opportunity for minority representation will probably be diminished. Since 1971, eight black candidates have run for city office. None have placed higher than fifth, a position insufficient to achieve election under the plurality system, were staggered terms in effect. Thus, under the proposed system it appears, from past voting patterns in the city, that blacks could not win sufficient white support to elect a representative of their choice. As a result, we are unable to conclude that a staggered terms system will not have a discriminatory impact on the black voters in the Town of Gretna.

Under Section 5 of the Voting Rights Act the submitting authority has the burden of proving that a submitted change has no discriminatory purpose or effect. See, e.g., Georgia v. United States, 411 U.S. 526 (1973); 28 C.F.R. 5419. 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. Consequently, I must on behalf of the Attorney General interpose an objection to the staggering of terms occasioned by this act.

cc: Public File

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, the Procedures for the Administration of Section 5 (28 C.F.R. 51.2K(b) and (c), 51.23, and 51.24) permit you to request the Attorney General to reconsider the objection. However, until the objection is withdrawn or the judgment from the District of Columbia Court obtained, the effect of the objection by the Attorney General is to make the implementation of Chapter 308 legally unenforceable.

To enable this Department to meet its responsibility to enforce the Voting Rights Act, please inform us within twenty days of your receipt of this letter of the course of action that the Town of Gretna plans to take with respect to this matter. If you have any questions concerning this letter, please feel free to call Mrs. Elda L. Gordon (202-724-6675), of our staff who has been assigned to handle this submission.

Sincerely,

DREW S. DAYS III  
Assistant Attorney General  
Civil Rights Division

cc: Mr. Coleman B. Yeatts, Jr.  
Town Attorney