



U. S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20035

February 26, 2004

C. Havird Jones, Jr., Esq.
Senior Assistant Attorney General
P.O. Box 11549
Columbia, South Carolina 29211-1549

Dear Mr. Jones:

I am writing in regards to Act R.88 (2003), which changes the method of electing the Board of Trustees for the Charleston County School District from nonpartisan to partisan elections, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. We received your response to our August 12 request for additional information on December 31, 2003.

We have carefully considered the information you provided, census data, information in our files, and comments from other interested persons, as well as the federal district court's findings in *United States v. Charleston County*, No. 2:01-0155-23 (D.S.C. March 6, 2003). In light of the considerations discussed below, I cannot conclude that your burden under Section 5 of the Voting Rights Act has been sustained. Therefore, on behalf of the Attorney General, I am compelled to object to Act R.88 (2003).

The Voting Rights Act requires a jurisdiction seeking to implement a proposed change affecting voting to establish that, under the totality of the circumstances, the change does not "lead to a retrogression" in the position of minority voters with respect to the "effective exercise of the electoral franchise." *Georgia v. Ashcroft*, 123 S.Ct. 2498, 2511 (2003); *Beer v. United States*, 425 U.S. 130, 141 (1976). Whether a change is retrogressive "depends on an examination of all the relevant circumstances, such as the ability of minority voters to elect a candidate of choice, the extent of the minority group's opportunity to participate in the political process, and the feasibility of creating a nonretrogressive plan." *Georgia*, 123 S.Ct. at 2511. In addition, the jurisdiction must establish that the change was not adopted with an intent to regress. *Reno v. Bossier Parish School Board*, 528 U.S. 320, 340 (2000).

Our review of the electoral impact of the proposed change, the views of elected officials at