

The State of South Carolina

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May 15, 1989

Joseph S. Mendelsohn, Esquire
Attorney at Law
Post Office Box 633
Charleston, South Carolina 29402

Dear Mr. Mendelsohn:

I am in receipt of your letter in which you inquired if a county election commission is the proper authority to make a voting rights act submission.

The rules and regulations which govern submissions of changes under the Voting Rights Act are set out in 28 CFR § 51.1, et seq. Section 51.21 provides in part that

[c]hanges affecting voting shall be submitted by the chief legal officer or other appropriate officer of the submitting authority or by any other authorized person on behalf of the submitting authority.

Section 51.2(i) defines "submitting authority" as the "jurisdiction on whose behalf a submission is made."

The entire State of South Carolina is under the provisions of the Voting Rights Act. Section 51.6 provides that

all political subunits within a covered jurisdiction (e.g. counties, cities, school districts) are subject to the requirements of Section 5.

It is not the function of a county election commission, which is a county office, to make submissions on behalf of the county or any sub-unit within that county. An election commission is a body of very limited power and authority that simply exists to conduct elections for the county by printing ballots, appointing poll managers and hearing protests. The powers and duties of the various election commissions are set out in the

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South Carolina Code of Laws, 1976. See in general, Sections 7-13-70; 7-13-340; 7-13-1150; 7-17-10 - 7-17-100.

Changes affecting voting that occur in the county, school district, special purpose districts, etc., and that come under the provisions of the Voting Rights Act, must be submitted by the submitting authority in those "covered jurisdictions" who normally makes the Voting Rights Act submissions regarding changes that affect the county or other political subdivision.

Although the election commissions are not generally empowered on their own to make a voting rights change, should they make such a change, this change must be submitted and precleared prior to this change being implemented. As the county election commissions are not submitting authorities for the county and as they are a county office, any changes they might make would be on behalf of the county. Therefore, the best procedure would appear to be to request the county submitting authority to submit the change.

Sincerely,



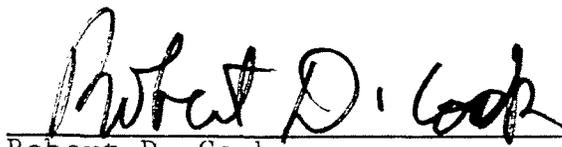
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