

1983 WL 181915 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

June 15, 1983

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Dear Billy:

I am in receipt of your letter in which you requested guidance regarding an election for County Council in Williamsburg County. My understanding of the factual background is that Williamsburg County enacted a reapportionment plan and submitted it to the United States Department of Justice. While waiting for the Justice Department to approve or disapprove your plan, a primary was held. The plan was subsequently objected to by the Justice Department. The general election was not held and another plan was submitted to the Justice Department. This plan kept District No. 1 intact with absolutely no line changes from the original plan. You have now raised the following questions:

(a) Your determination of whether or not a primary will be necessary in view of the fact that our 1982 reapportionment plan was declared invalid subsequent to the primary held in June 1982.

The Voting Rights Act, of course, requires any change effecting voting to be submitted to the Justice Department or to the District Court in the District of Columbia prior to its implementation. Any change not approved is unenforceable. [42 U.S.C. § 1973c](#). [O'Neal v. Simpson](#), 350 So. 2d 998 (Miss. 1977), cert. den. 98 S.Ct. 1510, 435 US 934, 55 L.Ed. 2d 53. Therefore, as the Justice Department objected to the plan under which you held your primary, a new primary will have to be held under the newly created districts.

(b) If you determine a primary is necessary, a time schedule for filing for office and the time frame in which the primary must be held.

A political party convention must be advertised in a newspaper for at least three weeks, Section 7-11-30; a political party primary must, likewise, be advertised with sufficient notification for persons to file for office—at least one to two weeks; time must be allotted for campaigning; time has to be allotted for the possibility of a run-off which must be held within two weeks of the first primary, Section 7-13-50, *et seq.*; and, petition candidates, primary candidates, and convention candidates must be certified as candidates thirty (30) days before the election, Section 7-13-350, as amended.

(c) The recommended date for the general election.

Section 7-13-35 requires the election commission to publish notices sixty (60) days before all general and special elections held in the county. Therefore, the specific date for the election will have to be set with this requirement in mind. Additionally, the May 20, 1983, letter from the Justice Department approving your new plan indicates your plan for this election will have to be submitted to the Justice Department for their review prior to the election.

(d) The determination of whether or not Mr. Tommy Grier, a present County Councilman, will be allowed to run as a candidate from the first district.

This question has arisen because one district's lines have not been altered from the lines of the original plan. It is my understanding that Mr. Grier was defeated in the original primary. As I informed you in my letter of February 7, 1983, this question cannot be definitely answered by this Office. However, I believe the letter from Justice was strongly suggesting the entire original plan was objected to and, therefore, the entire primary would be invalid.

Sincerely,

\*2 T. Travis Medlock  
Attorney General

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