



Civil Rights Division

JKT:YR:HMM:par
DJ 166-012-3
2006-1018

*Voting Section - NWB.
950 Pennsylvania Avenue, N.W.
Washington, DC 20530*

April 21, 2006

Mr. Thurbert Baker
Attorney General
Mr. Dennis R. Dunn
Deputy Attorney General
40 Capitol Square, S.W.
Atlanta, Georgia 30334-1300

Re: Your File No. 2006-01

Dear Messrs. Baker and Dunn:

I am writing in reference to Act No. 432 (S.B. 84) (2006), which, as set forth in your submission:

- (1) requires the State Election Board to formulate and conduct a voter education program with particular emphasis on proper voter identification subject to funding;
- (2) creates and provides the requirements for issuance of the Georgia voter identification card, a new form of permissible voter identification to be available without cost or oath requirement, as an acceptable form of identification for voting purposes;
- (3) requires each county board of registrars to provide at least one location within the county for the issuance of Georgia voter identification cards;
- (4) requires that the State Election Board will provide each county board of registrars with the necessary equipment, forms, supplies, and training to produce Georgia voter identification cards; and,
- (5) requires the State Election Board to adopt rules and regulations for the administration of the Georgia voter identification card program

for the State of Georgia. The state submitted these changes to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. We received your submission on February 21, 2006, and supplemental information was received on March 6, 2006.

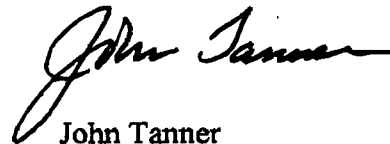
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Our analysis indicates that the assignment of a voter education program to the State Election Board does not constitute a change subject to the preclearance requirement of Section 5. Voter education programs are a regular part of the duties of the Secretary of State, and the Supreme Court has made clear in *Presley v. Etowah County Commission*, 502 U.S. 491, 502-03 (1992) that such shifts in responsibility among State officials and fluctuations in budget fall are not subject to the requirements of Section 5. We also note that the rules and regulations for the administration of the Georgia voter identification card program have not yet been adopted, and accordingly are not currently capable of administration and properly before us for Section 5 review. Accordingly, no determination by the Attorney General is required or appropriate under Section 5. See *Procedures for the Administration of Section 5 of the Voting Rights Act* (28 C.F.R. 51.35).

The Attorney General does not interpose any objection to the addition of a new form of photo identification to be available to all voters for free, the requirement that there be at least one site in each county where such identification may be obtained, and the provision of support necessary to make such sites functional. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes. In addition, as authorized by Section 5, we reserve the right to reexamine this submission if additional information that would otherwise require an objection comes to our attention during the remainder of the sixty-day review period. *Id.* at 28 C.F.R. 51.41 and 51.43.

We also stress that the Attorney General's determination regarding the precleared changes in Act No. 432 (S.B. 84)(2006) does not extend to changes that have yet to be adopted pursuant to the enabling portions of this legislation. See 28 C.F.R. 51.15. Specifically, the designation of each specific location or multiple specific locations within each of the State's 159 counties at which the new identification will be available will constitute a change affecting voting subject to the preclearance requirements of Section 5, just as the rules and regulations for the administration of the voter identification card program will require subsequent review. Therefore, the state and its local jurisdictions are not relieved of their responsibility to seek Section 5 review of any changes affecting voting that are proposed pursuant to this legislation. See 28 C.F.R. 51.15.

Sincerely,



John Tanner
Chief, Voting Section