

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

UNITED STATES OF AMERICA,

Plaintiff,

v.

THE STATE OF NORTH CAROLINA, *et al.*,

Defendants.

Civil Action No. 13-cv-861

Declaration of Peyton McCrary, Ph.D.

Pursuant to 28 U.S.C. § 1746, I, Peyton McCrary, make the following declaration:

1. My name is Peyton McCrary. I am a historian in the Voting Section of the Civil Rights Division at the United States Department of Justice. I have held this position since August 1990. My responsibilities include the planning, direction, coordination, and performance of historical research and statistical analysis in connection with ongoing litigation.

2. I received B.A. and M.A. degrees from the University of Virginia. I obtained my Ph.D. from Princeton University in 1972. My primary training was in the history of the United States, with a specialization in the history of the South during the 19th and 20th centuries.

3. I have personal knowledge of the information contained in this declaration based upon my professional experience and my review of the relevant records maintained by the Department of Justice.

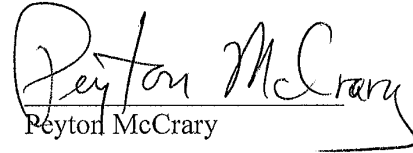
Section 5 Objections in North Carolina

4. Upon enactment of the Voting Rights Act of 1965, a total of forty of North Carolina's counties became covered under Section 4(b) of the Voting Rights Act pursuant to coverage determinations made by the Census Bureau and the Department of Justice. *See* 30 F.R.

9897 (1965), 31 F.R. 19, 3317, 5081 (1966). By virtue of this coverage, these forty counties became subject to the preclearance provisions of Section 5 of the Act. Likewise, by virtue of this coverage under Section 4(b) after the 1965 enactment of the Voting Rights Act, North Carolina's then-existing literacy test was suspended in these forty covered counties by Section 4(a) of the Act. The state's literacy test was not suspended in the remainder of the State until 1970, by virtue of the adoption of Section 201 of the Voting Rights Act in 1970—suspension that became permanent by virtue of Section 201 of the Act being made permanent in 1975. In 1967, Wake County bailed out from coverage under Section 4(b) by virtue of obtaining a declaratory judgment under Section 4(a) of the Act, and it was thus exempted from being subject to Section 5 of the Act. *See Wake County v. United States*, No. 1198-66 (D.D.C. January 23, 1967). In 1975, the Voting Rights Act was amended and Jackson County became one of North Carolina's covered counties under Section 4(b) of the Act, pursuant to new coverage determinations made by the Census Bureau and the Department of Justice. *See* 40 F.R. 49422 (1975). By virtue of this coverage, Jackson County also became subject to Section 5 of the Act. In 2010, one other sub-county jurisdiction in North Carolina, the City of Kings Mountain in Cleveland and Gaston counties, bailed out by virtue of obtaining a declaratory judgment under Section 4(a) of the Act. *City of Kings Mountain v. Holder*, No. 10-1153 (D.D.C. Oct. 22, 2010). Attachment A lists the forty North Carolina counties that were covered by Section 5 of the Voting Rights Act as of the time of the United States Supreme Court's decision in *Shelby County v. Holder*, 133 S. Ct. 2612 (2013), on June 25, 2013.

5. From 1965 through 2012, the Department of Justice interposed objections to 65 voting changes that had been submitted for review under Section 5 of the Act by North Carolina jurisdictions. Attachment B lists these objections.

I declare under penalty of perjury that the foregoing is true and correct. Executed this
15th day of May, 2014.


Peyton McCrary

Attachment A

North Carolina Jurisdictions Previously Covered by Section 5 of the Voting Rights Act

Covered Counties in States Not Covered as a Whole		Applicable Date	Fed. Register	Date
North Carolina:				
1.	Anson County	Nov. 1, 1964	30 FR 9897	Aug. 7, 1965
2.	Beaufort County	Nov. 1, 1964	31 FR 5081	Mar. 29, 1966
3.	Bertie County	Nov. 1, 1964	30 FR 9897	Aug. 7, 1965
4.	Bladen County	Nov. 1, 1964	31 FR 5081	Mar. 29, 1966
5.	Camden County	Nov. 1, 1964	31 FR 3317	Mar. 2, 1966
6.	Caswell County	Nov. 1, 1964	30 FR 9897	Aug. 7, 1965
7.	Chowan County	Nov. 1, 1964	30 FR 9897	Aug. 7, 1965
8.	Cleveland County	Nov. 1, 1964	31 FR 5081	Mar. 29, 1966
9.	Craven County	Nov. 1, 1964	30 FR 9897	Aug. 7, 1965
10.	Cumberland County	Nov. 1, 1964	30 FR 9897	Aug. 7, 1965
11.	Edgecombe County	Nov. 1, 1964	30 FR 9897	Aug. 7, 1965
12.	Franklin County	Nov. 1, 1964	30 FR 9897	Aug. 7, 1965
13.	Gaston County	Nov. 1, 1964	31 FR 5081	Mar. 29, 1966
14.	Gates County	Nov. 1, 1964	30 FR 9897	Aug. 7, 1965
15.	Granville County	Nov. 1, 1964	30 FR 9897	Aug. 7, 1965
16.	Greene County	Nov. 1, 1964	30 FR 9897	Aug. 7, 1965
17.	Guilford County	Nov. 1, 1964	31 FR 5081	Mar. 29, 1966
18.	Halifax County	Nov. 1, 1964	30 FR 9897	Aug. 7, 1965
19.	Harnett County	Nov. 1, 1964	31 FR 5081	Mar. 29, 1966
20.	Hertford County	Nov. 1, 1964	30 FR 9897	Aug. 7, 1965
21.	Hoke County	Nov. 1, 1964	30 FR 9897	Aug. 7, 1965
22.	Jackson County	Nov. 1, 1972	40 FR 49422	Oct. 22, 1975
23.	Lee County	Nov. 1, 1964	31 FR 5081	Mar. 29, 1966
24.	Lenoir County	Nov. 1, 1964	30 FR 9897	Aug. 7, 1965
25.	Martin County	Nov. 1, 1964	31 FR 19	Jan. 4, 1966
26.	Nash County	Nov. 1, 1964	30 FR 9897	Aug. 7, 1965
27.	Northampton County	Nov. 1, 1964	30 FR 9897	Aug. 7, 1965
28.	Onslow County	Nov. 1, 1964	30 FR 9897	Aug. 7, 1965
29.	Pasquotank County	Nov. 1, 1964	30 FR 9897	Aug. 7, 1965
30.	Perquimans County	Nov. 1, 1964	31 FR 3317	Mar. 2, 1966
31.	Person County	Nov. 1, 1964	30 FR 9897	Aug. 7, 1965
32.	Pitt County	Nov. 1, 1964	30 FR 9897	Aug. 7, 1965
33.	Robeson County	Nov. 1, 1964	30 FR 9897	Aug. 7, 1965
34.	Rockingham County	Nov. 1, 1964	31 FR 5081	Mar. 29, 1966
35.	Scotland County	Nov. 1, 1964	30 FR 9897	Aug. 7, 1965

United States Department of Justice, *Jurisdictions previously covered by Section 5* (2014) available at http://www.justice.gov/crt/about/vot/sec_5/covered.php (last visited Apr. 30, 2014).

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36.	Union County	Nov. 1, 1964	31 FR 5081	Mar. 29, 1966
37.	Vance County	Nov. 1, 1964	30 FR 9897	Aug. 7, 1965
38.	Washington County	Nov. 1, 1964	31 FR 19	Jan. 4, 1966
39.	Wayne County	Nov. 1, 1964	30 FR 9897	Aug. 7, 1965
40.	Wilson County	Nov. 1, 1964	30 FR 9897	Aug. 7, 1965

United States Department of Justice, *Jurisdictions previously covered by Section 5 (2014)* available at http://www.justice.gov/crt/about/vot/sec_5/covered.php (last visited Apr. 30, 2014).

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Attachment B

Section 5 Objections in North Carolina

Plymouth (Washington Cty.) (T8037)	At-large elections	3-17-71
State (T4000, T7203)	Literacy test for registration	3-18-71
State (T4006)	Literacy test for registration	4-20-71
State (T4025, V3064)	Senate and House districts; numbered posts	7-30-71
State (V3320, V3321)	Senate and House districts; numbered posts	9-27-71
Lumberton City School District (Robeson Cty.) (V8901, X0961-63)	Chapter 636 "A" Addition (1967); Chapter 638 (1967), as amended by Chapter 687 (1971); Chapter 443, as repealed and re-enacted by Chapter 611 (1969)--three annexations	6-2-75 Objection withdrawn 9-27-82 to Chapter 636 "A" Addition (1967); and Chapter 638 (1967), as amended by Chapter 687 (1971)--two annexations
Craven County School District (V8909)	Chapter 837 (1967)--redistricting; method of election	9-23-75 Withdrawn 3-15-76
Robeson County School District (V9028)	Chapter 770 (1969)--at-large elections; staggered terms; voter qualifications	12-29-75
Williamston (Martin Cty.) (X8929)	Staggered terms	2-4-77
Rocky Mount (Edgecombe Cty.)(V8785)	Thirty-six annexations	12-9-77 Withdrawn 6-9-78
Pasquotank County (A2347)	Polling place	1-3-78
Laurinburg (Scotland Cty.) (A8044,A6184)	Majority vote requirement and separation of electoral contests of the two-year term and the four-year term councilmanic positions	12-12-78
Reidsville (Rockingham Cty.) (C2649)	Staggered terms	8-3-79
Greenville (Pitt Cty.) (80-1964)	Majority vote requirement	4-7-80
New Bern (Craven Cty.) (80-1917)	Two annexations	9-29-80 Withdrawn 10-5-81

United States Department of Justice, *Section 5 Objection Determinations* (2014) available at http://www.justice.gov/crt/about/vot/sec_5/obj_activ.php (last visited Apr. 30, 2014) (follow North Carolina link).

State (81-2275)	H.B. No. 471 (1967)--1968 amendment which provides that no county shall be divided in the formation of a Senate or Representative district	11-30-81 Withdrawn 7-12-02
State (81-1782)	Chapter 821 (S.B. No. 313 (1981)), Chapter 894 (S.B. No. 87 (1981))--senate and congressional redistricting	12-7-81
State (81-1784)	Chapter 1130 (1981)--house reapportionment	1-20-82
Guilford County (81-1793)	At-large to residency district elections	3-1-82
State (82-2368)	S.B. No. 1 and H.B. No. 1--Senate and House redistricting	4-19-82
Greensboro (Guilford Cty.) (81-1797)	Three annexations	6-21-82 Withdrawn 4-8-83 upon change in method of election
New Bern (Craven Cty.) (82-2359)	Annexation	12-21-82 Withdrawn 9-22-83 after change in method of election
Windsor (Bertie Cty.) (82-2345)	Establishment of residency districts for the election of commissioners and to the districting plan	3-28-83
Edgecombe County School District (83-2606)	Establishment of residency districts and the election of six members from residency districts	1-16-84
Rocky Mount (Edgecombe and Nash Ctys.) (83-2608)	Eleven annexations	2-21-84 Withdrawn 5-9-85 upon change in method of election
Halifax County (83-2633)	1971 N.C. Sess. Laws 681, which readopted the existing at-large election system with an increase in the number of county commissioners from five to six	5-16-84
Robeson County (84-3124)	Consolidation of voting precincts and the elimination of the South Smiths polling place	9-21-84 Withdrawn 1-28-85

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State (84-3093)	House Bill 2, Chapter 1 (1984)--reapportionment of House Districts 8 and 70	10-1-84
Cumberland County School District (84-3052)	Implementation schedule for the consolidated school district	4-8-85
Fayetteville (Cumberland Cty.) (84-3047)	Twenty-nine annexations	4-29-85 Withdrawn 3-3-86 upon change in form of government
Elizabeth City (Pasquotank Cty.) (85-3069)	Method of election--four single-member districts and four at large with residency districts; districting plan and implementation schedule	3-10-86
Wilson County (85-3137)	Method of election and districting plan	3-10-86
State (85-3050)	Chapter 262, H.B. No. 367 (1965)--numbered posts for superior court judges; Chapter 997, S.B. No. 557 (1967), and Chapter 1119, S.B. No. 125 (1977)--staggered terms for superior court judgeships in Districts 3, 4, 8, 12, 18, and 20	4-11-86
Pitt County School District (85-3077)(85-3078)	Chapter 2, H.B. No. 29 (1985)--which provides for the consolidation of the Pitt County School District and the Greenville City School District, the appointment of a twelve-member interim board, the election of a twelve-member permanent board, and the method of election (eight residency districts and one multi-member residency district electing four members by a plurality vote to staggered, six-year terms of office); Chapter 495, H.B. No. 1397 (1985)--which provides for the increase from twelve to fifteen appointed members to the interim consolidated board; Chapter 360, H.B. No. 769 (1971)--which changed the appointed Pitt County board to a nine-member board elected at large on a nonpartisan basis from residency districts with a plurality vote requirement to six-year, staggered terms, and specified the election schedule	5-5-86

United States Department of Justice, *Section 5 Objection Determinations* (2014) available at http://www.justice.gov/crt/about/vot/sec_5/obj_activ.php (last visited Apr. 30, 2014) (follow North Carolina link).

Onslow County School District (85-3066)	Chapter 525, H.B. No. 1284 (1977)--residency districts	5-12-86
State (86-3915)	Schedule for holding special primary elections for a superior court position in District 18	5-23-86
Martin County School District (86-3896)	Chapter 380 (1971)--residency district requirement	10-27-86
Wayne County (87-3606)	Chapter 476, S.B. No. 303 (1965)--staggered terms (board of commissioners)	11-4-86
Onslow County (87-3528)	Chapter 151, H.B. No. 311 (1969) and Chapter 167, S.B. No. 209 (1969) --staggered terms (board of commissioners)	7-6-87
Beaufort County School District (86-3789)	Chapter 210 (1971)--residency districts	10-26-87
Bladen County (87-3340)	August 20, 1987, resolution which provides for a change in the method of electing the board of commissioners from at large to three double-member districts and one at-large, the districting plan, implementation schedule, and the increase in the size of the board from five to seven members	11-2-87
Camden County School District (87-3343)	Chapter 173, H.B. No. 490 (1977)--residency districts	11-9-87
Anson County (87-3322)	Chapter 216 (1977)--majority vote requirement	12-7-87
Pitt County (87-3544)	Chapter 432 (1987)--method of election	12-29-87
Granville County School District (87-3443)	Change from at-large to single-member districts and the districting plan	8-1-88 Withdrawn 12-29-88

United States Department of Justice, *Section 5 Objection Determinations* (2014) available at http://www.justice.gov/crt/about/vot/sec_5/obj_activ.php (last visited Apr. 30, 2014) (follow North Carolina link).

Lee County (89-3028)	Chapter 195, H.B. No. 595 (1989)--permits changes in method of election for county board of commissioners; June 26, 1989, Resolution -- increases number of commissioners from five to seven; changes method of election from at large by majority vote and staggered terms to four commissioners elected from single-member districts and three commissioners elected at large, all by plurality vote for staggered terms 4-3, with three at-large seats elected concurrently without numbered posts; a districting plan; an implementation schedule; and procedures for selecting party nominees in the event of a tie in the primary	12-4-89 Withdrawn 1-8-90
Ahoskie (Hertford Cty.) (89-3021)	Three annexations (Ordinance Nos. 1989-02, 1989-03, 1989-04)	12-18-89
Perquimans County (89-3064)	Act No. 104 (1989)--method of election (elimination of residency requirement and adoption of plurality vote requirement for primary elections, and method of staggering terms)	4-9-90
Perquimans County School District (89-4026)	Act No. 105 (1989)--method of election (elimination of residency requirement and method of staggering terms)	4-9-90
Anson County School District (89-2898)	Chapter 288 (1989)--at-large election with numbered positions and runoff requirement for two members	5-29-90
Franklin County (89-2966)	Chapter 306, H.B. No. 555 (1967)--majority-vote requirement in primary elections for county commission	6-28-90
Anson County School District (91-1241)	Chapter 33 (1991)--method of election (two at-large positions and the 40-percent plurality requirement for nomination for those positions)	9-23-91
State (91-2724; 91-3267)	1991 redistricting for the North Carolina State House, Senate and Congressional plans	12-18-91

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State (91-3885)	Change in the length of the term of the judge elected in 1990 to fill a vacancy in multimember superior court District 3A thus creating staggered terms for the judgeships in that district	4-21-92
State (93-1943)	Delaying implementation of mail-in registration	11-16-93
State (93-2818-2820)	Six additional district court judges (in Districts 1, 3A, 8, 12, 18, and 20)	2-14-94 Withdrawn 5-30-95, as to District 1 judgeship; withdrawn 1-11-96, as to remaining judgeships
Laurinburg (Scotland Cty.) (94-0771)	Annexation (Ordinance No. 0-1994-01)	4-25-94 Withdrawn 6-23-94
Mt. Olive (Wayne Cty.) (94-1403)	Four districts, two at-large method of election, including an increase from five to six commissioners	9-13-94
State (95-2922)	Chapter 355 (1995)--prohibits state legislative and Congressional district boundaries from crossing voting precinct lines unless the districts are found in violation of Section 5 of the Voting Rights Act	2-13-96
Camp Butner Reservation (Granville Cty.) (96-3224) (pdf)	At-large method of election and staggered terms	2-3-97
Harnett County School District (2001-3769) (pdf)	2001 redistricting plan (board of education)	7-23-02
Harnett County (2001-3768) (pdf)	2001 redistricting plan (board of commissioners)	7-23-02
City of Fayetteville (Cumberland Cty.) (2007-2233) (pdf)	Method of election from nine single-member districts to six and 2007 City Council redistricting plan	6-25-07

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City of Kinston (Lenoir Cty.) (2009-0216) (pdf)	Nonpartisan method of election for mayor and council members.	8-17-09 Wthdrawn 2-10/12
Pitt County School District(2011-2474) (pdf)	Method of election from twelve single-member districts to seven.	4-30-12

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