

**U.S. Department of Justice**

Civil Rights Division

TCH:RSB:RPL:AAO:par  
DJ 166-012-3  
2009-0037  
2012-1467

*Voting Section - NWB  
950 Pennsylvania Avenue, NW  
Washington, DC 20530*

May 18, 2012

Swati S. Patel, Esq.  
Chief Counsel  
Office of the Governor  
P.O. Box 12267  
Columbia, South Carolina 29211

Dear Ms. Patel:

This refers to the schedule for conducting the May 22, 2012, special general election, including conduct of the election by the Horry County Election Commission and the State Election Commission, for the Town of Atlantic Beach in Horry County, South Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, 42 U.S.C. 1973c. We received your submission on March 19, 2012.

The Attorney General does not interpose any objection to the specified changes. 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. Procedures for the Administration of Section 5 of the Voting Rights Act of 1965, 28 C.F.R. 51.41.

This also refers to our January 12, 2009, letter (copy enclosed), which requested submission under Section 5, of election changes following the South Carolina Supreme Court's order directing the town to rerun the November 6, 2007, mayoral election. These changes include, but are not limited to, the selection of the election dates for this election and a joint election agreement between the Town of Atlantic Beach and Horry County, South Carolina, with respect to rerunning the mayoral election.

We have not received a response to our correspondence. Unless the town receives a declaratory judgment from the United States District Court for the District of Columbia or the Attorney General interposes no objection to the specified changes, they are not legally enforceable. *Clark v. Roemer*, 500 U.S. 646 (1991); 28 C.F.R. 51.10.

To enable us to meet our responsibility to enforce the Voting Rights Act, please inform us of the action the town plans to take concerning this matter. If you have any questions, please

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call Abigail Olson (202-305-0787) of our staff. Refer to File No. 2009-0037 in any response to this letter so that your correspondence will be channeled properly.

Sincerely,

A handwritten signature in black ink, appearing to read 'T. Christian Herren, Jr.', written in a cursive style.

T. Christian Herren, Jr.  
Chief, Voting Section

Enclosure



U.S. Department of Justice

Civil Rights Division

CC:RPL:TRN:maf  
DJ 166-012-3  
2009-0037

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

January 12, 2009

Amanda A. Bailey, Esq.  
McNair Law Firm  
P.O. Box 336  
Myrtle Beach, South Carolina 29578

Dear Ms. Bailey:

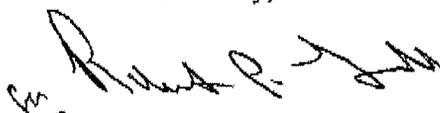
We understand that the Town of Atlantic Beach in Horry County, South Carolina, has implemented election changes following the South Carolina Supreme Court's order directing the town to rerun the November 6, 2007, mayoral election. These changes include, but are not limited to, the selection of the election dates for this election and a joint election agreement between the Town of Atlantic Beach and Horry County, South Carolina, with respect to rerunning the mayoral election.

According to our records, these changes affecting voting have not been submitted to the United States District Court for the District of Columbia for judicial review or to the Attorney General for administrative review as required by Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. If our information is correct, it is necessary that these changes either be brought before the District Court for the District of Columbia or submitted to the Attorney General for a determination that they do not have the purpose and will not have the effect of discriminating on account of race, color, or membership in a language minority group. Changes which affect voting are legally unenforceable without Section 5 preclearance. *Clark v. Roemer*, 500 U.S. 646 (1991); Procedures for the Administration of Section 5 of the Voting Rights Act (28 C.F.R. 51.10).

Should you elect to make a submission to the Attorney General for administrative review rather than seek a declaratory judgment from the United States District Court for the District of Columbia, please follow the procedures set forth in Subparts B and C of the procedural guidelines (28 C.F.R. Part 51), available at [www.usdoj.gov/crt/voting/sec\\_5/guidelines.htm](http://www.usdoj.gov/crt/voting/sec_5/guidelines.htm).

To enable us to meet our responsibility to enforce the Voting Rights Act, please inform us of the action the town plans to take concerning this matter. If you have any questions, you should call T. Russell Nobile, (202) 307-1190, an attorney on our staff. Refer to File No. 2009-0037 in any response to this letter so that your correspondence will be channeled properly.

Sincerely,



Christopher Coates  
Chief, Voting Section