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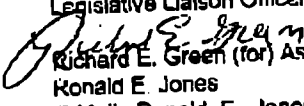
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**EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001**

Friday, June 25, 1999

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below

FROM:  Richard E. Green (for) Assistant Director for Legislative Reference

OMB CONTACT: Ronald E. Jones
E-Mail: Ronald_E_Jones@omb.eop.gov
PHONE: (202)395-3366 FAX: (202)395-3109

SUBJECT: JUSTICE Report on HR1173 States Choice of Voting Systems Act

DEADLINE: Noon Friday, July 2, 1999

In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

COMMENTS:**DISTRIBUTION LIST**

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U.S. Department of Justice
Office of Legislative Affairs

Washington, D.C. 20530

The Honorable Melvin L. Watt
Ranking Minority Member
Subcommittee on the Constitution
Committee on the Judiciary
U. S. House of Representatives
Washington, D.C. 20515

Draft

Dear Representative Watt:

This letter responds to your request of April 29, 1999, for the views of the Department of Justice on H.R. 1173, the "States' Choice of Voting Systems Act." We support H.R. 1173 as a valuable enabling measure that would give States greater flexibility. However, we are concerned about the impact of this legislation upon our enforcement of the Voting Rights Act of 1965.

As State legislatures prepare for congressional redistricting, they face difficult issues. Among these is the uncertainty caused by the Supreme Court's recent line of decisions, beginning with *Shaw v. Reno*, 509 U.S. 630 (1993), that gives individual voters a cause of action to challenge whether racial factors predominated in the redistricting process. Moreover, issues relating to census data files, such as sampling and tabulation of multi-racial categories, may affect States' efforts to comply with the one-person, one-vote requirement.

Congressional redistricting requires State legislatures to balance competing interests carefully and to satisfy public demands for fairness and integrity. Therefore, giving States greater flexibility in the redistricting process is an important objective. We believe it desirable to give States as many redistricting options as possible. H.R. 1173 would put more tools in the hands of State officials as they engage in the complex task of congressional redistricting.

H.R. 1173 would permit States to use multi-member districts. Single-member districts have long been a very successful and therefore crucial remedy for vote dilution under section 2 of the Voting Rights Act. Inherent in multi-member districts is the potential for diluting the voting strength of minority voters where there is racially polarized voting. Therefore, a multi-member system for a State's congressional delegation must be designed in such a way that it does not dilute the votes of minority voters.

The bill provides that the voting system adopted by a State must comply with the Voting Rights Act. Our support for this legislation depends on that requirement remaining explicit. Moreover, to guard against the harm of minority vote dilution, it would be essential that the Justice Department use its enforcement authority under section 2 or section 5 of the Voting Rights Act to ensure that in every instance multi-member districts provide all voters an equal opportunity to elect candidates of their choice, even in the face of racially polarized voting.

Thank you for the opportunity to present our views. Please do not hesitate to call upon us if we may be of additional assistance. The Office of Management and Budget has advised us that from the perspective of the Administration's program, there is no objection to submission of this letter.

Sincerely,

Jon P. Jennings
Acting Assistant Attorney General

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States' Choice of Voting Systems Act (Introduced in the House)

HR 1173 IH

106th CONGRESS

1st Session

H. R. 1173

To provide that States may use redistricting systems for Congressional districts other than single-member districts.

IN THE HOUSE OF REPRESENTATIVES

March 17, 1999

Mr. WATT of North Carolina (for himself, Mrs. CLAYTON, Mr. CLYBURN, Mr. SANDERS, Mr. CUMMINGS, Mrs. JONES of Ohio, Mr. SCOTT, Mr. FRANK of Massachusetts, Ms. LEE, Mr. THOMPSON of Mississippi, Mr. BROWN of California, Mr. HASTINGS of Florida, and Mr. DAVIS of Illinois) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To provide that States may use redistricting systems for Congressional districts other than single-member districts.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'States' Choice of Voting Systems Act'.

SEC. 2. RIGHT OF STATES TO CHOOSE DISTRICTING SYSTEMS.

The Act entitled 'An Act for the relief of Doctor Ricardo Vallejo Samala and to provide for congressional redistricting', approved December 14, 1967 (2 U.S.C. 2c), is amended by striking 'In each State' and all that follows and inserting the following:

'SEC. 2. CONGRESSIONAL REDISTRICTING.

In each State entitled in the One Hundred Eighth Congress or in any Congress thereafter to more than one Representative in Congress under an apportionment made pursuant to the provisions of section 22(a) of the Act of June 18, 1929 (ch. 28; 46 Stat. 26)--

(1) there may be established by law a number of districts equal to the number of Representatives to which such State is so entitled and Representatives may be elected only from single-member districts so established, or

(2) such State may establish a number of districts for election of Representatives that is less than the number of Representatives to which the State is entitled and Representatives may be elected from single-member districts, multi-member districts, or a combination of single-member and multi-member districts, if that State uses a system that meets the constitutional standard that each voter should have equal voting power and does not violate the Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.).

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