

## CONCURRENCE IN SENATE AMENDMENTS

AB 1079 (Ávila Farías)

As Amended July 3, 2025

Majority vote

**SUMMARY**

Maintains the enforcement of a superior court order in cases involving the California Voting Rights Act of 2001 and the Fair and Inclusive Redistricting for Municipalities and Political Subdivisions Act of 2023, despite a pending appeal, *in cases filed after January 1, 2026*.

*Major Provisions*

- 1) Provides that the perfecting of an appeal does not stay enforcement of the judgment or order in the trial court, in the absence of an order of the trial court providing otherwise, under any of the following circumstances:
  - a) The trial court has found that a party's at-large method of election, as defined, violates, or is likely to violate, the California Voting Rights Act of 2001; or
  - b) The trial court has found that a party's at-large method of election, as defined, violates, or is likely to violate the Fair And Inclusive Redistricting for Municipalities And Political Subdivisions of 2023.
- 2) *Provides* that, notwithstanding 1) a trial courts order *may be* stayed during the pendency of an appeal if the Secretary of State file a certification in the trial court declaring that staying enforcement of a judgment or order pending appeal is *necessary for the orderly administration of the state's elections*.
- 3) Clarifies that the bill does not apply to an action commenced prior to January 1, 2026.
- 4) Clarifies that the bill does not preclude a reviewing court from issuing various writs, as specified.
- 5) Requires any local agency that has election maps invalidated by a court, if such a decision is not stayed on appeal, to reimburse a county elections official for any actual costs incurred by that elections official in administering elections for the party as a result of the enforcement of the trial court's judgment or order, and as the result of any orders issued by a court during an appeal of the action.
- 6) Makes various findings and declarations.

**Senate Amendments**

- 1) *Eliminate the involvement of the Attorney General.*
- 2) *Provide that, upon receiving a certification from the Secretary of State, a court is permitted, but not required, to stay a decision involving the California Voting Rights Act of 2001 and the Fair and Inclusive Redistricting for Municipalities and Political Subdivisions Act of 2023.*

**COMMENTS**

In 2019, the Los Angeles County Superior Court held that the City of Santa Monica's at-large municipal election system violated the California Voting Rights Act of 2001 by unlawfully diluting minority votes. (*Pico Neighborhood Association v. City of Santa Monica* (2019) 2019 Cal. Super. LEXIS 2015.) When the City appealed that decision, the existing law required the superior court's ruling to be stayed automatically. By the time the California Supreme Court ruled in the matter, several elections were held utilizing the at-large system that was ultimately deemed *to be suspect under the law*. The author contends that the lag time caused by appeals in voting rights cases prolongs unlawful disenfranchisement of minority voters; and that it is far easier to return to at-large elections than to remedy years of voting discrimination. Accordingly, this bill would, *for cases filed after January 1, 2026*, eliminate automatic stays of cases that involve certain voting rights claims, thus permitting elections to move to the more representative district-based electoral system while the entirety of the legal process plays out.

*Seeking to ensure fair and adequate representation of all Californians, existing law favors district-based municipal elections.* In 1986, the United States Supreme Court held that conducting elections in a manner that dilutes the voting power of minority groups violated the United States Constitution. (*Thornburg v. Gingles* (1986) 478 U.S. 30.) To ensure that California law was not inadvertently permitting this practice the Legislature adopted the California Voting Rights Act of 2001 (SB 976 (Polanco) Chapter 129, Statutes of 2002.) When the Judiciary Committee evaluated that measure it noted that the standard for invalidating at-large elections adopted by the California Voting Rights Act was stronger than that required by the Supreme Court in *Thornburg* but nonetheless recommended passage of that measure. (Assembly. Committee. on Judiciary, Analysis of Senate. Bill No. 976 (2001-2002 Regular. Session.) as amended Apr. 9, 2002, p. 4.) Essentially, in order to invalidate an at-large local election a plaintiff must prove that the minority community tends to vote in a cohesive manner and that the municipality's racial majority votes in a racially sufficiently monolithic manner as to prevent minority candidates from having a realistic change to prevail. As a result of SB 976, most cities and counties in California have gradually moved toward district-base elections over the past 20 years.

Recognizing the success of the SB 976 framework in diversifying the state's elected office holders, in 2023, the Legislature adopted AB 764 (Bryan) Chapter 343, Statutes of 2023, to expand district-based election requirements to include elections for special districts including school boards and community college trustees. Because the law does not *mandate* district based elections, in order for a locality to move to district based elections they must be made voluntarily or may be required by the courts.

*California law generally stays lower court decisions pending appeal.* A general principal in most civil litigation is to preserve the status quo until the courts can decipher the proper outcome. That is why existing law (Code of Civil Procedure Section 916) generally requires the staying of a lower court decision pending appeal in order to preserve the status quo should a higher court reverse the trial court. The only exceptions to this rule are provided in statute; they allow the trial court order to take effect in exigent circumstances in which delaying enforcement may result in immediate harm to the individuals or the general public. For example, certain child custody proceedings in which there is a risk of a child being removed from the jurisdiction (See Code of Civil Procedure Section 917.7), or the removal of hazardous substances (Code of Civil Procedure Section 917.15).

*This bill* recognizes that decisions related to fair elections are pressing matters of public concern. Accordingly, this bill adds decisions related to the California Voting Rights Act and the Fair and Inclusive Redistricting for Municipalities and Political Subdivisions Act of 2023 to the statutory list of case types *not* subject to an automatic stay pending appeal. Accordingly, should this bill become law, a superior court decision requiring a local government to adopt district-based elections would take effect, despite the pending appeal, *in most circumstances*.

This bill recognizes that it is far easier, and far more democratic, to undo district based elections than to perpetuate an unfair electoral system while parties haggle in court. As animated by the Pico-Santa Monica saga, election-based legal disputes appear to have sufficient exigencies to warrant a statutory exception to the automatic stay rule.

### **According to the Author**

This bill eliminates the automatic stay of judgement in CVRA and FMA cases, ensuring that cities or districts cannot delay justice to their minority populations with the mere filing of a Notice of Appeal. The bill provides an exception to this no automatic stay of judgement when the Secretary of State files a certification, preventing overly chaotic elections if the city or district is not given enough time between the trial court's decision and their next election to smoothly shift election systems.

### **Arguments in Support**

None on file.

### **Arguments in Opposition**

This bill is opposed by several of the organizations representing the plaintiffs in the *Pico* case. The opposition particularly focuses on provisions of the bill that make the measure prospective, and thus inapplicable to the *Pico* case. The Pico Neighborhood Association writes in opposition:

The exclusion of Santa Monica from the protections of AB 1079 legitimizes the City's long-standing delay tactics and knowingly permits the continuation of racial discrimination in our local elections. Minority voters in our city, especially those in the Pico Neighborhood, have endured nearly a decade of litigation and disenfranchisement despite a 2019 court ruling recognizing racially polarized voting and ordering a transition to district elections. Rather than correct this injustice, the amended bill enshrines it.

This betrayal comes amid escalating concerns across our city and state. Our communities are facing increased racial profiling by ICE, a documented loss of civil rights and due process, and a worrying erosion of constitutional values. We are seeing our neighbors detained without cause, our families torn apart, and our right to representation diluted—all while being told by elected officials and institutions that we must wait longer, accept less, and settle for silence.

Most recently, our own State Assembly representative—elected by the people—was physically thrown to the ground and handcuffed for standing with his constituents. He was mocked on national television and referred to by the wrong name, a dehumanizing dismissal of his identity and role. Senator Alex Padilla has spoken clearly about the dangers of voter suppression and systemic discrimination. We now urge him to stand firmly on the side of democracy.

AB 1079, as amended, does not deliver justice. It delivers compromise at the expense of communities of color, of due process, and of our fundamental constitutional rights. We cannot afford to write this exclusion into law.

## FISCAL COMMENTS

None

## VOTES:

### ASM JUDICIARY: 7-3-2

**YES:** Kalra, Bauer-Kahan, Bryan, Connolly, Harabedian, Papan, Stefani

**NO:** Dixon, Essayli, Sanchez

**ABS, ABST OR NV:** Pacheco, Zbur

### ASM ELECTIONS: 4-2-1

**YES:** Pellerin, Berman, Solache, Stefani

**NO:** Macedo, Lackey

**ABS, ABST OR NV:** Bennett

### ASSEMBLY FLOOR: 55-16-8

**YES:** Addis, Aguiar-Curry, Ahrens, Alvarez, Arambula, Ávila Farías, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Caloza, Carrillo, Connolly, Elhawary, Fong, Gabriel, Garcia, Gipson, Mark González, Haney, Hart, Jackson, Kalra, Krell, Lee, Lowenthal, McKinnor, Muratsuchi, Nguyen, Ortega, Patel, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Ransom, Celeste Rodriguez, Michelle Rodriguez, Rogers, Blanca Rubio, Schiavo, Sharp-Collins, Solache, Soria, Stefani, Valencia, Ward, Wicks, Wilson, Zbur, Rivas

**NO:** Alanis, Castillo, Chen, Davies, DeMaio, Dixon, Ellis, Gallagher, Hadwick, Hoover, Lackey, Macedo, Patterson, Sanchez, Tangipa, Wallis

**ABS, ABST OR NV:** Flora, Jeff Gonzalez, Harabedian, Irwin, Pacheco, Papan, Schultz, Ta

## UPDATED

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CONSULTANT: Nicholas Liedtke / JUD. / (916) 319-2334

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