Date of Hearing: June 23, 2026

ASSEMBLY COMMITTEE ON JUDICIARY
Ash Kalra, Chair
SB 1164 (Cervantes) – As Amended May 14, 2026

SENATE VOTE: 29-9

SUBJECT: ELECTIONS

SYNOPSIS

Beginning with Shelby County v Holder (2013) 570 U.S. 529 and *culminating in April of this year with* Louisiana v Callais*, the United States Supreme Court has greatly weakened the federal Voting Rights Act of 1965. In addition to the Court rulings, the President of the United States has called upon both Congress and the several states to enact voter ID laws and similar legislation that could erect barriers to people voting, which some claim disproportionately impacts voters of color. California has for the most part rejected these national trends, though in 2024 the City of Huntington Beach passed a voter ID law. The author and sponsor of this bill contend that California should respond to federal developments by strengthening the California Voting Rights Act (CVRA).*

This bill repeals the existing CVRA of 2001 and replaces it with the presumably stronger CVRA of 2026. Both the existing and proposed versions of CVRA address problems of "voter dilution" – that is, drawing district lines in ways that reduce the ability of a voting minority to influence the outcome of an election or the makeup of local governing bodies. The existing CVRA addressed the problem of vote dilution by prohibiting local political subdivisions from replacing district-based elections with at-large elections, whereas the bill before the Committee prohibits a political subdivision from adopting any *redistricting plan, or indeed any "election policy or practice" that results in, or is likely to result in, voter suppression, including any policy or practice that impairs the ability of a protected class to fully and effectively participate in the political process.*

The bill also strengthens existing law by requiring cities or counties with a history of discrimination to obtain approval before making changes in voting practices, and it grants standing to the Attorney General or any aggrieved party to enforce those provisions. In setting forth factors that the court must consider to find a violation, the bill revives the principles that informed federal case law prior to the recent decision in Louisiana v Callais, *most notably by stressing that a plaintiff only needs to show that a practice* resulted *in discrimination, not that* intended *to discriminate. Of course nothing in the bill can change federal law, and our state voting practices must continue to conform to both federal and state law where applicable.*

This bill is sponsored by the California Democracy Partnership, a coalition of good government, civil rights, immigrant rights, and labor organizations, and supported by several others. Californians for Electoral Reform support the bill if amended to adopt the "remedy neutral" approaches adopted by other states. The City of Carson opposes the bill unless amended to expressly adopt the rule in Louisiana v Callais *that prohibits considering race in developing a remedy unless it is justified to correct* intentional *racial discrimination.*

SUMMARY: Repeals and replaces the California Voting Rights Act of 2001 so as to protect voters from voter suppression and vote dilution. Specifically, **this bill**:

1) Prohibits a political subdivision or state agency from implementing, imposing, or enforcing any election policy or practice that results or is likely to result in voter suppression. This includes at-large and district-based jurisdictions. Provides that a violation of this provision is established if any of the following is present:

    a) A material disparity affecting protected class members in voter participation, access to voting opportunities, or the opportunity or ability to participate in any stage of the political process, as a result of the policy or practice.

    b) An impairment of the equal opportunity or ability of protected class members to participate in any stage of the political process based on the totality of circumstances.

    c) An eligible voter facing an undue burden to their opportunity or ability to participate in any stage of the political process as a result of their incarceration or prior criminal conviction.

    d) Direct or circumstantial evidence of intentional discrimination.

2) Provides a violation of 1) above does not exist if the political subdivision or state agency demonstrates both of the following with clear and convincing evidence:

    a) The election policy or practice is necessary to significantly further a compelling and particularized governmental interest.

    b) No reasonable alternative election policy or practice exists that comparably furthers the compelling and particularized governmental interest and results in a smaller disparity between protected class members and other members of the electorate.

3) Prohibits a political subdivision from employing any method of election that has the effect, will likely have the effect, or is motivated in part by the intent to dilute the vote of protected class members.

4) Provides a violation of 3) is established if direct or circumstantial evidence of intentional discrimination exists or both of the following are satisfied:

    a) Either of the following conditions exist:

        i) Elections in the political subdivision exhibit racially polarized voting resulting in an impairment of the equal opportunity or ability of protected class members to nominate or elect candidates of their choice.

        ii) Based on the totality of circumstances, the equal opportunity or ability of protected class members to nominate or elect candidates of their choice is impaired.

    b) Another method of election or a change to the existing method of election exists that could be constitutionally adopted or ordered to mitigate the impairment.

5) Provides a specified list of guidelines and rules for evaluating voter suppression claims in 1) of this bill and vote dilution claims in 4), including applicability to ongoing civil actions.

6) Provides that to the extent courts are afforded discretion on any issue, including, but not limited to, questions concerning discovery, procedure, admissibility of evidence, or remedies, it is the policy of the state that courts must exercise that discretion, and weigh other equitable discretion, in favor of the following factors:

   a) Making voting, the fundamental right to vote, and the ability to participate in the democratic process more accessible to eligible voters.

   b) Safeguarding and vindicating, to the fullest extent possible, the voting rights of all voters, including, but not limited to, equitable access to opportunities to register to vote and vote, and the equal opportunity to elect candidates of choice.

   c) Ensuring protected class members have full access to relief from discrimination in voting.

7) Provides that an action to cure a violation may be brought by any individual or entity aggrieved by the violation of the CVRA, or by the Attorney General. Requires a court, upon finding a violation, to order appropriate relief that completely remedies the violation and authorizes the court to order remedies that are tailored to best mitigate the violation, including forms of preliminary and injunctive relief. Specifies that recovery of the plaintiff's attorney's fees is limited to $25,000 and limits recovery of all other costs, including consultant and expert fees, to $50,000.

8) Provides that in any action under the CVRA or any other voting-related violation of state or federal law, a political subdivision shall not assert any sovereign, governmental, executive, legislative, or deliberative privilege or immunity, other than attorney-client privilege or any protection of attorney-client work product.

9) Requires any political subdivision that has entered into a court-approved settlement agreement admitting liability or has been found to have violated any state or federal voting rights law, to obtain preapproval from the Attorney General before enacting or administering any specified covered practice, as specified. A covered practice includes any of the following:

   a) A new or modified method of election, including changes to districting plans or maintenance of a method of election following a decennial census.

   b) An annexation or de-annexation.

   c) A reduction in language assistance.

10) Requires the Attorney General to create a process and a timeline for political subdivisions subject to the preapproval requirement to submit requests for preapproval for covered practices, including at a minimum, procedures for public comment and transparency. Requires the Attorney General to annually review which political subdivisions are subject to preapproval requirements. Specifies that any denial of preapproval may be appealed only by the political subdivision within 30 days of the denial.

EXISTING LAW:

1) Prohibits, pursuant to Section 2 of the federal Voting Rights Act of 1965, voting practices or procedures that discriminate on the basis of race, color, or membership in a language minority group. This includes any voting standard, practice, or procedure that results in the denial or abridgement of the right of any citizen to vote on account of race, color, or membership in a language minority group. (52 U.S.C. Section 10301(a).)

2) Specifies that a violation of 1) is established if, based on the totality of circumstances, it is shown that the political processes leading to nomination or election in the State or political subdivision are not equally open to participation by members of the protected class of citizens in that its members have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice. (52 U.S.C. Section 10301(b).)

3) Prohibits a political subdivision from imposing or applying an at-large method of election for members of the political subdivision's governing body in a manner that impairs the ability of a protected class to elect candidates of its choice or its ability to influence the outcome of an election, as specified. Defines "protected class" for this purpose to mean a class of voters who are members of a race, color, or language minority group, as referenced in the federal Voting Rights Act. (Election Code Sections 14206 and 14207.)

4) Provides that a violation of 3) above is established if it is shown that racially polarized voting occurs in elections for members of the governing body of the political subdivision or in elections incorporating other electoral choices by the voters of the political subdivision. Sets forth the factors that may establish racially polarized voting. (Election Code Section 14028.)

5) Requires the court, upon finding a violation of 3) or 4) above to implement appropriate remedies, including the imposition of district-based elections, that are tailored to remedy the violation. Requires the court to allow the prevailing plaintiff, other than the state or a political subdivision thereof, a reasonable attorney's fee, as specified, and litigation expenses including, but not limited to, expert witness fees and expenses as part of the costs. Prevailing defendants shall not recover any costs, unless the court finds the action to be frivolous, unreasonable, or without foundation. (Election Code Sections 14029 and 14030.)

FISCAL EFFECT: As currently in print this bill is keyed fiscal.

COMMENTS: According to the author:

> Under the stewardship of Chief Justice John Roberts, the Supreme Court of the United States has gradually chipped away at the federal Voting Rights Act of 1965 over the last two decades, culminating with its recent horrific decision in Louisiana v. Callais. Because the California Voting Rights Act of 2021 only prohibits discriminatory at-large election systems, California law is now inadequate to provide the voting rights safeguards that have protected Californian voters for generations. The California Voting Rights Act of 2026 will enshrine many of the provisions prohibiting vote dilution, voter suppression, and other forms of voter discrimination that once existed in the federal VRA into state law. This bill will also ensure that California continues to lead on voting rights by providing the California Attorney General and individual California voters with improved means to enforce state elections laws

The Voting Rights Act and the U.S. Supreme Court. Even before Congress passed and President Lyndon Johnson signed the historic Voting Rights Act of 1965, the Supreme Court had already begun to take a more capacious view of the right to vote. In *Baker v Carr* (1962) 369 U.S. 186, the U.S. Supreme Court held that redistricting was not a purely "political question" and was therefore subject to judicial review. The Court reasoned that egregious examples of "malapportionment" and gerrymandering undermined the constitutional guarantee that each state was to have a "republican" (or representative) form of government. In *Reynolds v Sims* (1964) 377 U.S. 533, the Court held that state legislative districts must have roughly equal population to ensure "one person, one vote." That same year voters ratified the 24th Amendment to the Constitution, which prohibited poll taxes in federal elections and authorized the U.S Attorney General to challenge state and local poll taxes.

The Voting Rights of 1965 consisted of several sections, including provisions that banned literacy tests and provided for the placing of "federal examiners" in jurisdictions with low levels of voter registration. Most significantly, Section 4 of the Act identified specific "covered jurisdictions" which had a history of voting discrimination and where fewer than 50% of minorities who were eligible to vote were registered. Section 5 required any "covered" jurisdiction identified in Section 4 to seek "preclearance" from the Attorney General before changing any voting practice or procedure. Section 2 prohibited any voting practice or procedure that discriminated on the basis of "race, color, or language group."

Because the Voting Rights left many questions unanswered, it would be up to the courts to flesh out its meaning. One question concerned whether Section 2 required "intent" to discriminate, or if it was sufficient that the challenged practice "resulted" in discrimination. Another question concerned whether "vote denial" (that is, practices that create barriers to registering and voting) included "vote dilution" (creating districts that diluted the influence of a protected class of voters, even though members of the protected class could freely vote.) Chief Justice Earl Warren held that the Act prohibited dilution as well as denial: "The Voting Rights Act was aimed at the subtle, as well as the obvious, state regulations that have the effect of denying citizens their right to vote because of race . . . The right to vote can be affected by dilution of voting power as well as by absolute prohibition on casting a ballot." (*Allen v Board of Elections* (1969) 393 U.S. 544.)

The question of whether a violation of the Voting Rights required "intent" was first addressed by the Court in *City of Mobile v Bolden* (1980) 446 U.S. 55, when African American voters challenged Mobile's "at large" elections for its three-member commission. The Court noted that the at-large method did not stop African Americans from freely voting or running for office. The fact that the at-large system has a discriminatory "effect" of diluting the Black vote was not sufficient. Plaintiffs needed to show that the intent of the plan was to discriminate on the basis of race. However, this decision prompted Congress to respond with the 1982 amendment to the Voting Rights Act, which expressly prohibited any practice that "results" in the denial or abridgment of the right to vote because of race. In *Thornburgh v Gingles* (1986) – the first major case after the 1982 amendment – the Court held that a North Carolina redistricting plan had the "effect" of discriminating on the basis of race and therefore violated Section 2. The Court held that creation of a "majority-minority" district was a permissible remedy if the following were true: (1) the minority is sufficiently numerous and compact to constitute a majority single district; (2) the minority in "cohesive" in that it tends to vote similarly; and (3) the majority bloc can usually negate the votes of the minority group. This so-called "Gingles test" prevailed until recently. As the Court noted as recently as *Allen v Mulligan* (2023): "Four the last four decades this Court. . . has repeatedly applied the effects test of [Section 2] as interpreted by *Gingles* and,

under certain circumstances, have authorized race-based redistricting as a remedy for state redistricting maps that violate [Section 2]."

It was the "four decades" of precedent – following Congress' express statement in amending Act to prohibit practices that had the "effect" of discrimination – that made the Supreme Court's decision in *Louisiana v Callais* such a significant departure and reversal of longstanding understandings of the Voting Rights Act. After the 2020 census, Louisiana drew a congressional map that created a Black majority in only one of the state's six districts, even though Blacks constitute one-third of the state's population. A federal district court held that the map violated Section 2 and ordered the state to create a second majority-minority district, which the state legislature attempted to do with SB 8. White voters then challenged SB 8 and a federal court held that the new map violated the Equal Protection clause of the 14th Amendment, on the theory that intentionally creating a Black majority district denied white voters within each district equal protection of the law. The state then appealed in order to defend SB 8 and the redrawn map, claiming it was necessary to comply with Section 2 of the Voting Rights Act.

On appeal the U.S. Supreme Court defined the issue as follows: "Does compliance with the Voting Rights Act justify the intentional use of race to draw district lines?" In a somewhat confusing decision – as detailed by the dissenters – the majority held that Section 2 may permit consideration of race if the *Gingles* factors are met, but that still does not justify the intentional use of race as a "predominant factor" in drawing districts. The majority opinion denied the dissenters claim that the Court had overturned *Gingles* and gutted Section 2; rather, the majority claimed that that Section 2 and *Gingles* were still intact, but the map did not meet the *Gingles* test "as properly understood." Apparently, "properly understood" meant that (1) race could not be the "predominant factor" in drawing lines and (2) to prevail a plaintiff would need to show "intent" to discriminate based upon race. As the dissenters argued, the majority appeared to ignore the 1982 amendment (upheld by *Gingles*) that rejected the "intent" requirement and expressly prohibited practices that "result" in discrimination or vote dilution.

The California Voting Rights Act of 2001. Before the CVRA was signed by Governor Gray Daivs on July 9, 2002, the voting rights of racial and linguistic minorities in California depending largely upon the federal Voting Rights Act – albeit the Act as interpreted before the *Callais* reversal. While CVRA and the federal Voting Rights Act overlap in some ways, the CVRA is distinctive in that it only prohibits a political subdivision from shifting from district-based to at-large elections in a manner that impairs the ability of a "protected class" to elect candidates of its choice or its ability to influence the outcome of an election. CVRA followed federal law in defining a "protected class" as any group of voters who are members of a "race, color, or language minority group." One important difference between CVRA and federal law is that under CVRA a plaintiff only needs to demonstrate the existence of racially polarized voting, whereas under federal law a plaintiff must also show that this racially polarized voting prevents the minority group from electing their preferred candidates. However, while it is somewhat easier for a plaintiff to prevail under CVRA, the remedies for the prevailing plaintiff is limited to returning to district based elections. There is no equivalent in CVRA to Section 2 of the federal Voting Rights Act, which until recently allowed, and sometimes required, local or state governments to draw districts creating one or more majority-minority districts.

This bill's proposed recasting of CVRA. As noted, this bill repeals the existing CVRA of 2001 (Election Code Sections 14026-14030) and replaces it with the presumably stronger CVRA of 2026. Both the existing and proposed versions address problems of "voter dilution" – that is,

drawing district lines in ways that, because of polarized voting, reduce the ability of a voting minority to influence the outcome of an election or the makeup of local governing bodies. The existing CVRA addresses the problem of vote dilution by prohibiting local political subdivisions from replacing district-based elections with at-large elections, whereas the bill before the Committee would prohibit a political subdivision from adopting any redistricting plan, or indeed any "election policy or practice" that results in, or is likely to result in, voter suppression, including any policy or practice that impairs the ability of a protected class to fully and effectively participate in the political process. Thus, the new CVRA will allow a plaintiff to challenge not merely a shift from district-based elections to at-large elections, but it will also allow a plaintiff to challenge the way lines are drawn within a district plan. Moreover, because the new CVRA applies to "any" policy or practice, it could potentially be used to challenge other practices that have nothing to do with drawing district lines, such as voter ID laws.

The bill also creates a stronger CVRA by requiring cities or counties with a history of discrimination to obtain pre-approval from the Attorney General before making changes in voting practices, and it grants the Attorney General or any aggrieved party standing to sue. In determining whether a particular practice violates the CVRA, the bill revives many of the principles that informed federal case law prior to the recent decision in *Louisiana v Callais*, most notably by stressing that a plaintiff only needs to show that a practice *resulted* in discrimination, not that it was *intended* to discriminate.

Interaction with federal law. Although some of the author's background material and some of the letters of support suggest that this bill is somehow necessary to shield California from troubling changes in federal voting rights law, and especially the recent decisions of the U.S. Supreme Court, it is important to stress that the new CVRA will not and cannot shield California from federal law. To be sure, nothing requires California to respond to the *Callais* decision by redrawing its district maps to reduce the influence of voters from a protected class, as some other states have done in the wake of the *Callais* decision. Moreover, it is certainly permissible for California to enact laws that offer more protection than federal law and thus allow and encourage aggrieved persons to seek a remedy under state law rather than under federal law.

However, our state laws cannot *conflict* with federal statutes or the provisions of the U.S. Constitution as interpreted by the U.S. Supreme Court. While a court under CVRA could fashion a remedy for a violation that has the *effect* but not the *intent* of discriminating against a voter from a protected class, there is nothing that would prevent the political subdivision that lost the case, or a voter who was not a member of the protected class, from challenging the CVRA on constitutional as opposed to statutory grounds. Significantly, the *Louisiana v Callais* decision was not based *solely* on the meaning of the federal Voting Rights Act. After all, the plaintiffs who challenged the Louisiana maps did not allege a violation of the Voting Rights Act; rather, they argued that prioritizing race in the drawing of the maps violated the equal protection clause of the 14th Amendment. The Court's majority opinion concluded that because Section 2 of the Voting Rights Act did not *require* Louisiana to create a majority-minority district, the state's use of race was unconstitutional because it lacked a compelling government interest that is required of any racial classification. This is not to say – as the City of Carson claims in its letter of opposition – that the CVRA is itself unconstitutional for failing to expressly adopt the rule promulgated in *Callais.* But it is possible that a remedy fashioned under the CVRA could be challenged on constitutional grounds.

In conclusion, it may well be that CVRA of 2026 offers more protection for voting rights than the CVRA of 2001, and that in itself might be enough to justify the bill. The bill might also be justified as an important statement on the part of California at a time when the U.S. Supreme Court and the President seem determined to roll back voting rights. However, it would be a mistake to conclude that this bill will shield the state from, or is somehow necessitated by, these troubling developments.

ARGUMENTS IN SUPPORT*:* The California Democracy Partnership – a coalition of good government, civil rights, and labor organizations and the bill's sponsor – writes in support:

> Senate Bill 1164, part of the California Voting Rights Act of 2026 bill package (CVRA of 2026 Package), which responds to ongoing attacks on the federal Voting Rights Act of 1965 ("federal VRA") by strengthening and expanding protections against voting discrimination. The California Democracy Partnership is a broad coalition of labor, civil rights, and community-based organizations committed to safeguarding the right to vote.
>
> More than two decades ago, California enacted the first state-level voting rights act, the California Voting Rights Act of 2001 (CVRA of 2001) to address the persistent harms caused by at-large election systems that weaken or drown out people's voices based on race. The law has transformed democracy across California: more than 600 local governments have abandoned at-large elections, many in response to claims of vote dilution. The CVRA of 2001, however, is limited in scope. It addresses only at-large elections and provides no relief against dilutive district maps or other suppressive and discriminatory voting practices. For this reason, California cannot rely on the CVRA of 2001 alone to meet the challenges facing voters today.

ARGUMENTS IN SUPPORT IF AMENDED: Californians for Electoral Reform (CFER)– a group which advocates for alternative voting methods, and especially proportional representation – supports this bill if amended to adopt a "remedy neutral" approach that had been adopted in seven other states. CFER explains:

> We are pleased that SB1164 acknowledges proportional methods as effective voting rights remedies, as has been demonstrated in the small East Bay city of Albany, and in other states. However, we are disappointed that it adds obstacles to their adoption that are not in California's current law, and not in the Voting Rights Acts of Maryland, Colorado, Minnesota, Connecticut, New York, Oregon, or Washington.
>
> In those other states, any interested party can propose any remedy, and all remedies are held to the same high standard. In several states, if parties agree on a remedy other than single-member districts, they avoid court. SB1164 allows only a plaintiff to propose a remedy other than single-member districts in Section 10010, and then that remedy faces court tests that single-member district remedies are exempt from, even if all parties agree to the change.
>
> Other states recognize the value of providing flexibility for different situations. Proportional methods are especially effective remedies in small communities and those where protected groups are not geographically concentrated in a single location, or different protected groups overlap geographically. In those cases, candidates can appeal to a protected group throughout the community, and all of the group's members have an opportunity to elect a candidate of their choice regardless of where they live.

ARGUMENTS IN OPPOSITION, UNLESS AMENDED: The City of Carson opposes this bill unless amended to adopt the "intent" requirement and the prohibition on using race as a predominant factor, as decided by in *Louisiana v Callais.* The City of Carson writes:

> As the U.S. Supreme Court ruled in Louisiana v. Callais (2026) 146 S.Ct. 1131, the Fifteenth Amendment precludes any state from districting based on racial criteria. This holding applies to all states because it is grounded in the U.S. Constitution, not merely an interpretation of Section 2 of the Voting Rights Act of 1965. The only exception is if a state (or subdivision thereof) can prove that a race-based remedy is necessary upon evidence of intentional racial discrimination.
>
> SB 1164, as drafted and currently amended, imposes no such constitutionally mandated limitation applicable to City elections (such as a City council election) challenged as violating California's Voting Rights Act of 2026. This means that any City can challenge SB 1164 — should it become law — for a facial failure to comply with the U.S. Constitution.
>
> Carson therefore opposes SB 1164 unless it is amended to clarify that liability under that Act can only be imposed based upon evidence of intentional racial discrimination.

REGISTERED SUPPORT / OPPOSITION:

Support

AAPIS for Civic Empowerment
ACLU California Action
American Association of University Women - California
American Federation of State, County and Municipal Employees
Asian Law Caucus
California Black Power Network
California Clean Money Campaign
California Common Cause
California Community Foundation
California Domestic Workers Coalition
California Environmental Voters
California Federation of Labor Unions
California Native Vote Project
California School Employees Association
California State PTA
California Teachers Association
Campaign Legal Center
Catalyst California
CFT – a Union of Educators & Classified Professionals
City of Albany
Coalition for Humane Immigrant Rights
Courage California
Democrats of Rossmoor
Demos
Dolores Huerta Foundation
Drug Policy Alliance

Fair Vote Action
Hmong Innovating Politics
Inland Empire United
League of Women Voters of California
Legal Defense Fund
Mexican-American Legal Defense and Education Fund
National Council of Jewish Women CA
Neighborhood Elections Now; California Voting Rights Initiative
Nextgen California
Partnership for the Advancement of New Americans
Power California
PRC/Black Leadership Council
Secure Justice
SEIU California
Starting Over INC.
Starting Over Strong
UCLA Voting Rights Project
VietRISE
Voter Equality Association
Western Center on Law & Poverty
Women Lawyers of Sacramento

Support if Amended

Californians for Electoral Reform

Opposition

City of Carson (unless amended)

Analysis Prepared by: Tom Clark / JUD. / (916) 319-2334