

SENATE THIRD READING
SB 1164 (Cervantes)
As Amended August 20, 2026
Majority vote

SUMMARY

Broadens the California Voting Rights Act of 2001 (CVRA), which prohibits at-large election methods that impair voting rights, to permit challenges to be brought against election methods or systems that result in voter suppression or vote dilution. Requires local government agencies that violate specified laws related to voting rights to receive preapproval from the Attorney General (AG) before implementing certain changes to election practices for a 10-year period.

Major Provisions

- 1) Provides for the purpose of this bill that the term "protected class" means any group of eligible voters who are members of any race, color, or language-minority group, including two or more such groups, as specified.
- 2) Prohibits a political subdivision or state agency from implementing an election policy or practice that results in, or is likely to result in, voter suppression. Provides, generally, that a violation is established where the policy or practice disproportionately makes it harder for protected classes to vote or participate politically, unless the government can show the policy is necessary and that a less discriminatory alternative isn't reasonably available.
- 3) Prohibits a political subdivision from employing a method of election that has the effect, or will likely have the effect, of diluting the vote of members of a protected class of voters. Provides, generally, that a violation is established when there is a constitutionally permissible alternative election system that could reduce the problem, and protected classes have less ability to elect or nominate candidates of their choice due to racially polarized voting or when considering all circumstances.
- 4) Establishes guidelines and rules for evaluating voter suppression and vote dilution claims.
 - a) Provides that specified factors may be relevant in evaluating a claim, including any history of discrimination against members of, and historical disparities in political and voting participation and electoral success by, members of the protected class.
 - b) Provides that ongoing civil litigation filed before this bill becomes effective is governed by the legal standards in the existing CVRA for the purpose of establishing liability.
- 5) Requires laws and policies related to voting to be construed by state courts liberally in favor of the right to vote.
- 6) Permits an action to cure a violation of this bill related to voter suppression or vote dilution to be brought by an affected voter in the jurisdiction or by the AG, as specified. Requires a party other than the AG, before bringing an action against a political subdivision, to send a notice to the subdivision explaining how the policy or procedure, or method of election, may violate this bill and proposing a remedy that would address the violation, except as specified. Gives the political subdivision an opportunity to address the violation in response to such a letter before an action may be filed, except as specified.

- 7) *Requires actions brought under this bill to proceed expeditiously.* Permits a court to order appropriate relief tailored to remedy a violation of this bill, including remedies not otherwise allowed under existing state law.
- 8) Allows a successful plaintiff to recover reasonable costs and fees, including attorney's fees, from a defendant. Prohibits a successful defendant from recovering fees or costs except where the court finds the action to be frivolous, unreasonable, or without foundation.
- 9) Requires a political subdivision to receive preapproval from the AG before changing its method of election, annexing or de-annexing territory affecting the jurisdiction's population, or reducing language assistance, if the subdivision was found liable in the previous 10 years for violating this bill or a law or constitutional provision related to the right to vote for protected class members.
 - a) Permits the AG to grant approval for a covered change only if it will not diminish the ability of protected class members to participate in the political process or elect candidates of its choice.
 - b) Requires the AG to create a process and a timeline for political subdivisions subject to the preapproval requirement to submit requests for preapproval. Specifies that any denial of preapproval may be appealed only by the political subdivision within 30 days. Permits an affected voter in the jurisdiction to challenge the AG's preapproval in court.
- 10) Prohibits a political subdivision that changes its method of election under this bill or the existing CVRA from reverting to the method of election it previously used without first obtaining a court order, as specified.
- 11) Requires a body engaged in local redistricting to comply with the requirements of this bill when adopting new district boundaries. Prohibits a body that is adopting district boundaries for nonpartisan offices from using party affiliation data when redistricting or from relying on partisan advantage or political ideology to defend district boundaries in a legal challenge.

COMMENTS

SB 976 (Polanco), Chapter 129, Statutes of 2002, enacted the CVRA to address racially polarized voting in at-large local elections. In areas where racial block voting occurs, at-large election systems can dilute minority voting strength if the majority typically supports candidates that differ from those preferred by minority communities. In such situations, dividing a jurisdiction into districts can allow minority communities to elect candidates of their choice or influence election outcomes.

Since the CVRA's enactment, hundreds of local jurisdictions have transitioned to district-based elections, often in response to litigation, threats of litigation, or concerns about the costs of defending a CVRA lawsuit.

The 15th Amendment to the United States (US) Constitution provides, in part, that "[t]he right of citizens of the United States to vote shall not be denied or abridged by the United States or by any state on account of race, color, or previous condition of servitude." The amendment also grants Congress the authority to enact legislation to enforce its provisions. The 15th Amendment was ratified in February 1870.

Nearly a century later, Congress concluded that many states and local governments were failing to comply with the amendment's guarantees. Congressional hearings found that litigation had been ineffective in eliminating discriminatory voting practices because jurisdictions replaced invalidated practices with new discriminatory measures. In response, Congress enacted the federal Voting Rights Act (VRA), which was signed into law by President Lyndon B. Johnson.

As subsequently amended, the VRA contains numerous provisions designed to protect voting rights. Notably, Section 2 prohibits voting practices or procedures that discriminate on the basis of race, color, or membership in a language minority group. Section 4 established a coverage formula to identify jurisdictions with a history of voting discrimination, while Section 5 required those jurisdictions to obtain approval from either the US Department of Justice or the US District Court for the District of Columbia before implementing changes affecting voting. This approval process—commonly known as "preclearance"—was intended to ensure that proposed changes did not deny or abridge the right to vote on account of race or color.

Recent US Supreme Court decisions have limited federal protections against discriminatory voting practices. *Shelby County v. Holder* (2013) 570 U.S. 529, invalidated the VRA's Section 4 coverage formula, effectively ending Section 5 preclearance. Earlier this year, the US Supreme Court upheld Section 2 of the VRA in *Louisiana v. Callais*, but the majority opinion also established additional criteria for evaluating claims under Section 2, including a requirement that plaintiffs demonstrate that a challenged district map was the result of intentional racial discrimination. A dissenting opinion in the case concluded that those changes "render[] Section 2 all but a dead letter." In light of these decisions, supporters of this bill argue that California law should be updated to fill gaps in federal protections by providing broader safeguards against both vote dilution and voter suppression.

The existing CVRA addresses vote dilution only in at-large elections. This bill would expand the law to allow challenges to district-based election systems that impair protected groups' ability to elect candidates of choice or influence election outcomes. It would also create a new cause of action allowing affected voters to challenge election policies or practices that result in voter suppression, including practices unrelated to district boundaries, such as the placement of voting locations or the timing of elections.

These changes would significantly expand the scope of the CVRA. Under existing law, a local jurisdiction's adoption of district-based elections generally serves as a defense to a CVRA claim. Moreover, although courts have authority to impose remedies other than district-based elections in appropriate cases, the adoption of district elections has been by far the most common response to CVRA challenges. In practice, relatively few CVRA claims have proceeded to trial; most jurisdictions that have modified their election systems in response to the CVRA have done so before litigation was filed, often in response to a demand letter or threat of legal action.

By contrast, this bill would authorize challenges to virtually any election method, policy, or practice used by political subdivisions and would grant courts broad authority to fashion remedies tailored to address identified violations. Those remedies could include measures that are not currently authorized by state law. For example, although California law does not presently provide a framework for conducting elections using proportional representation systems, this bill expressly contemplates the possibility that a court could order the use of a "share-based" election method, such as proportional representation. Similarly, the bill contemplates that a court could order changes to the size of a local governing body, including, in

some circumstances, requiring a governing body to exceed the size otherwise permitted by state law. (Any increase in the size of a governing body would need to be "reasonable," and this bill restricts the ability of a court to order a change in the size of a county's board of supervisors.)

This flexibility could allow courts to develop more effective remedies for vote dilution and voter suppression, but also makes the bill's potential effects on election administration and local governance difficult to predict. Allowing courts to order election methods or governance structures not currently authorized by state law could also limit the Legislature's opportunity to evaluate the associated policy considerations before implementation.

The bill also strengthens the CVRA by establishing a preapproval requirement for certain jurisdictions that violated specified voting-rights laws. A local government agency that committed such violations would need to obtain approval from the AG for certain election-related changes for a period of ten years. This process is modeled on the preclearance system that previously applied to some jurisdictions under Section 5 of the VRA, as discussed above.

Please see the policy committee analyses for a full discussion of this bill.

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."

Arguments in Support

The sponsor of this bill—the California Democracy Partnership, a coalition of labor, civil rights, and community-based organizations, writes, "Voting rights are under active attack at the federal level: in court; in Congress; by Executive Orders; and through the weaponization of the U.S. Department of Justice, which has historically been a bulwark against discrimination but is now a direct threat to voters of color. Indeed, over the past 15 years the U.S. Supreme Court has eviscerated the federal VRA's core protections. This past April, in *Louisiana v. Callais*, the Court delivered perhaps the most devastating blow to the federal VRA yet, undercutting voters' ability to successfully challenge discriminatory election systems and district maps under that landmark law. The challenges California faces are not limited to federal attacks. Despite its progressive reputation, other conditions that foster voting discrimination persist in California: unfair district maps that weaken the voting power of communities of color, higher numbers of mail ballot rejections for voters of color, and lack of access to voting materials in county jails... Ongoing federal and local threats to voting rights highlight why California must act now to protect all voters, especially voters of color. SB 1164 is a direct response that will prevent voting discrimination, promote fair participation, and expand opportunities for communities of color to have a meaningful opportunity to elect candidates of choice."

Arguments in Opposition

In opposition to a prior version of this bill, the City of Carson wrote, "[a]s the U.S. Supreme Court ruled in *Louisiana v. Callais* (2026), 608 U.S. ___, 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."

FISCAL COMMENTS

According to the Assembly Appropriations Committee:

- 1) Costs of approximately \$1.3 million in fiscal year (FY) 2026-27, \$2.3 million in FY 2027-28, and \$2.2 million annually thereafter to the Department of Justice (DOJ) for increased workload to develop and defend regulations, provide and defend pre-approval to certain political subdivisions, and conduct related engagement, reviews, investigations, and enforcement (General Fund (GF)). DOJ anticipates needing at least nine new positions and an external consultant for specialized workload on issues pertinent to voting rights, elections, district maps, and demographics.
- 2) Costs of approximately \$859,000 in the first year and \$574,000 annually thereafter to the SOS to promulgate regulations and examine, test, certify, or conditionally approve voting systems, software, procedures, and voting technologies adopted to remedy a CVRA 2026 violation (GF). The SOS anticipates needing three additional positions for the increased workload while maintaining separation of duties between certification and monitoring functions and operational continuity during peak election periods.
- 3) By requiring a political subdivision to follow CVRA 2026 procedures and modifying the duties of local elections officials, this bill likely creates a state-mandated local program. If the Commission on State Mandates determines the provisions of this bill create a new program or impose a higher level of service for which the state must reimburse local costs, a local agency could claim reimbursement from the state (GF). The magnitude of these costs is unknown, but definitely significant.
- 4) Ongoing cost pressures of an unknown, but potentially significant amount, to the courts in additional workload by allowing the AG or certain voters to bring a prioritized action to enforce voting rights, allowing certain aggrieved voters to bring an action to challenge a preapproval determination granted by the AG, and requiring a court to review proposed remedies (GF or Trial Court Trust Fund (TCTF)). It is unclear how many actions may occur statewide and how much court time may be needed to resolve each case, but it generally costs approximately \$1,000 to operate a courtroom for one hour. Although courts are not funded on the basis of workload, increased pressure on staff and the TCTF may create a demand for increased court funding from the GF. The state budget provides annual GF

backfills to the TCTF to offset revenue reductions, totaling approximately \$117.3 million in fiscal year 2025-26.

VOTES

SENATE FLOOR: 29-9-2

YES: Allen, Archuleta, Arreguín, Ashby, Blakespear, Cabaldon, Caballero, Cervantes, Cortese, Durazo, Gonzalez, Grayson, Hurtado, Laird, Limón, McGuire, McNerney, Menjivar, Padilla, Pérez, Reyes, Richardson, Rubio, Smallwood-Cuevas, Stern, Umberg, Wahab, Weber Pierson, Wiener

NO: Alvarado-Gil, Choi, Dahle, Jones, Niello, Ochoa Bogh, Seyarto, Strickland, Valladares

ABS, ABST OR NV: Becker, Grove

ASM JUDICIARY: 9-3-0

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

NO: Macedo, Dixon, Sanchez

ASM ELECTIONS: 6-2-0

YES: Pellerin, Bennett, Berman, Elhawary, Solache, Stefani

NO: Johnson, Ellis

ASM APPROPRIATIONS: 11-4-0

YES: Wicks, Arambula, Calderon, Caloza, Fong, Mark González, Krell, Pacheco, Pellerin, Sharp-Collins, Solache

NO: Hoover, Dixon, Ta, Tangipa

UPDATED

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