

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2025-2026 Regular Session

AB 1079 (Ávila Farías)
Version: May 19, 2025
Hearing Date: July 1, 2025
Fiscal: No
Urgency: No
AM

SUBJECT

Civil appeals: stay of enforcement

DIGEST

This bill provides that the perfecting of an appeal does not stay enforcement of an order in the trial court, in the absence of an order of the trial court providing otherwise, if the trial court finds that either: (1) a party's at-large method of election violates, or is likely to violate, the California Voting Rights Act of 2001; or (2) a party's election district boundaries violate, or are likely to violate, the FAIR MAPS Act of 2023. The bill requires; however, that the enforcement of a judgment or order under the California Voting Rights Act of 2001 or the FAIR MAPS Act of 202 is to be stayed by the court upon appeal if the Attorney General and Secretary of State file a certification in the trial court stating that enforcement of the order is either: (1) in furtherance of either act; or (2) otherwise necessary for the orderly administration of the state's elections. The bill provides that it does not apply to a judgment or order entered in a proceeding or action described above that is commenced on or before January 1, 2026.

EXECUTIVE SUMMARY

In 2019, the Los Angeles County Superior Court found that the at-large municipal election system of the City of Santa Monica violated the California Voting Rights Act of 2001 because it unlawfully diluted minority votes.¹ The city appealed the decision and the decision was automatically stayed, as required under existing law. By the time, the appeal made its way to the California Supreme Court in 2023, three municipal elections had occurred using the at-large system that was deemed unlawful by the superior court.² The case is currently pending on remand in the appellate court.³ The author and proponents of this bill argue that automatically staying such a decision on appeal leads to further unlawful disenfranchisement of minority voters and note that it is easier and more equitable to return to at-large elections than to remedy years of elections that

¹ *Pico Neighborhood Association v. City of Santa Monica* (2019) 2019 Cal. Super. LEXIS 2015.

² *Pico Neighborhood Association v. City of Santa Monica* (2023) 15 Cal. 5th 292.

³ See Comment 3 below.

unlawfully discriminated against minority voters. The bill is author sponsored. The bill is opposed by some neighborhood associations, including the Pico Neighborhood Association and Santa Monicans United, and several individuals. Should the bill pass this Committee, it will next be heard in the Senate Elections and Constitutional Amendments Committee.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Establishes the California Voting Rights Act of 2001 to prevent electoral maps from being created in a manner that would reduce the ability of a protected class to influence the outcome of an election. (Elec. Code §§14025 et seq.)
 - a) Prohibits at-large municipal elections from being imposed or applied 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 a result of the dilution or the abridgment of the rights of voters who are members of a protected class. (Elec. Code Section 14026.)
 - b) A violation of a) is established if it can be 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. (Elec. Code Section 14027 (a).)
 - c) The occurrence of racially polarized voting under b) is to be determined by examining results of elections in which at least one candidate is a member of a protected class or elections involving ballot measures, or other electoral choices that affect the rights and privileges of members of a protected class. (*Id.* at subd. (b).)
- 2) Establishes the Fair and Inclusive Redistricting for Municipalities and Political Subdivisions Act of 2023 (FAIR MAPS Act of 2023) to protect the integrity, fairness, transparency, and accessibility of the local redistricting process, prohibit discriminatory local redistricting practices, and protect the people from unrepresentative and dilutive local electoral systems. (Elec. Code §§ 21100 et seq.)
 - a) Requires, following or concurrent with the decision to establish district-based elections for a legislative body, or following each federal decennial census for a legislative body that is already elected using district-based elections, the districting body to, by ordinance or resolution, adopt boundaries for all of the election districts of the legislative body so that the election districts are substantially equal in population as required by the U. S. Constitution. (Elec. Code § 21130 (a).)
 - b) Provides the criteria for establishing municipal electoral districts pursuant to a), and includes a requirement that, to the extent practicable and where it does not conflict with the law, the geographic integrity of any local

- neighborhood or local community of interest must be respected in a manner that minimizes its division. (*Id.* at subd. (c).)
- c) Defines “community of interest” to mean a population that shares common social or economic interests that should be included within a single election district for purposes of its effective and fair representation, and that characteristics of communities of interest may include, but are not limited to, shared public policy concerns such as education, public safety, public health, environment, housing, transportation, and access to social services. (*Ibid.*)
- 3) Provides the perfecting of an appeal stays proceedings in the trial court upon the judgment or order appealed from or upon the matters embraced therein or affected thereby, including enforcement of the judgment or order, unless otherwise provided by law. The trial court may proceed upon any other matter embraced in the action and not affected by the judgment or order. (Code Civ. Proc. § 916(a).)
- a) Provides that when there is a stay of proceedings other than the enforcement of the judgment, the trial court retains jurisdiction of proceedings related to the enforcement of the judgment as well as any other matter embraced in the action and not affected by the judgment or order appealed from. (*Id.* at subd. (b).)

This bill:

- 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 MAPS Act of 2023.
- 2) Requires that, notwithstanding 1), a trial courts order is stayed during the pendency of an appeal if the Attorney General and Secretary of State file a certification in the trial court declaring that staying enforcement of a judgment or order pending appeal is either of the following:
- a) in furtherance of the purposes of the California Voting Rights Act of 2001 or FAIR MAPS Act of 2023, as applicable; or
- b) otherwise necessary for the orderly administration of the state’s elections
- 3) Provides that, if the enforcement of a judgment or order is not stayed pursuant to 1), above, the party whom the action is brought against must reimburse a county elections official for any actual costs incurred by that elections official in administering elections 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.

- 4) Provides that the above provisions do not apply to a judgment or order entered on, or action commenced before, January 1, 2026 that asserts at least one cause of action under the California Voting Rights Act of 2001 or the FAIR MAPS Act of 2023.
- 5) Makes the following findings and declarations:
 - a) The vote dilution of at-large elections combated by the federal Voting Rights Act of 1965 (52 U.S.C. §§ 10101 et seq.) and the California Voting Rights Act of 2001, as well as the gerrymandering of electoral districts combated by the FAIR MAPS Act of 2023 are unacceptable harms to the electorate and our democracy that are impossible to fully repair after an election is conducted using an election system in violation of one or more of these laws.
 - b) At-large elections may operate to dilute minority votes and result in unresponsiveness of elected officials to the needs of minority communities.
 - c) Under current law, enforcement of an order or judgment implementing appropriate remedies under the California Voting Rights Act of 2001 or modifying election districts under the FAIR MAPS Act of 2023 may be stayed by the filing of an appeal of that order or judgment, thus forestalling effective relief to minority communities.
 - d) The prompt implementation of district-based elections to comply with the California Voting Rights Act of 2001 or adjustments in election district boundaries to comply with the FAIR MAPS Act 2023 may be ordered by a Superior Court of competent jurisdiction to protect the right to vote, the equal protection of the laws, and the integrity of the electoral process.
 - e) The dilution of votes of a protected class in elections for the governing boards of political subdivisions is a matter of statewide concern.
- 6) States it is the intent of the Legislature to ensure that remedial measures ordered by a Superior Court to address violations of the California Voting Rights Act of 2001 or the FAIR MAPS Act of 2023 are implemented promptly regardless of any pending appeal, except where either the Superior Court or both the Attorney General and Secretary of State determine that such prompt implementation is antithetical to those acts or the orderly administration of the state's elections.

COMMENTS

1. Stated need for the bill

The author writes:

AB 1079 would have a positive impact on the ability of underserved and marginalized communities to access the justice system. If cities or districts are able to delay justice to marginalized and underserved communities by simply filing a Notice

of Appeal, it is not practical to those marginalized and underserved communities to utilize the justice system, because, as Dr. Martin Luther King Jr. said in his Letter from a Birmingham jail: “justice delayed is justice denied.” Why would members of marginalized and underserved communities utilize the justice system when it is denying them justice?

2. Background on state voting rights laws

Almost forty years ago, the U. S. Supreme Court held that conducting elections in a way that dilutes the voting power of minority groups violated the U. S. Constitution. (*Thornburg v. Gingles* (1986) 478 U.S. 30.) In 2001, the Legislature enacted the California Voting Rights Act of 2001 (SB 976 (Polanco) Ch. 129, Stats. 2002.), which invalidates at-large local elections for a municipality if a plaintiff proves 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 chance to prevail. As a result, many municipalities in California have gradually moved toward district-based elections over the past 20 years.⁴ In 2023, the Legislature adopted AB 764 (Bryan, Ch. 343, Stats. 2023) to expand district-based election requirements to include elections for special districts, including school boards and community college trustees. Existing law does not require district-based elections, so a municipality or special district must voluntarily change to a district-based election, or this change can be required by the courts.

The FAIR MAPS Act of 2023 revised and standardized the criteria and process to be used by local governments when adjusting the boundaries of the electoral districts that are used to elect members of the jurisdictions' governing bodies, and required local jurisdictions to comply with substantial public hearing and outreach requirements as part of the process for adjusting the boundaries of electoral districts. (AB 764 (Bryan, Ch. 343, Stats. 2023.) The FAIR MAPS Act of 2023 sought to implement recommendations made in a report that evaluated the effects of the FAIR MAPS Act of 2019 (AB 849 (Bonta, Ch. 557, Stats. 2019) during the local redistricting process that followed the 2020 federal decennial census.⁵

3. Pico Neighborhood Association v. City of Santa Monica

In 2016, the Pico Neighborhood Association and others filed a lawsuit against the City of Santa Monica alleging that the at-large system used to elect candidates to the Santa Monica City Council was implemented to dilute the voting power of Latino voters in

⁴ Pieter K. van Wingerden and Aria Farat, *Mapping the Revolution in California City Council Election Systems*, Rose Institute of State and Local Government, Claremont McKenna College, (Apr. 20, 2025), available at https://roseinstitute.org/wp-content/uploads/2025/05/CA-City-Elections-Systems-Report_FINAL.pdf.

⁵ Nicholas Heidorn, *The Promise of Fair Maps*, Common Cause California, available at <https://www.commoncause.org/california/wp-content/uploads/sites/29/2023/01/CCC-FMA-Report.pdf>.

Santa Monica in violation of the California Voting Rights Act and the Equal Protection Clause of the California Constitution. In 2019, the Los Angeles Superior Court ruled in favor of plaintiffs on both claims. (*Pico Neighborhood Association v. City of Santa Monica* (2019) 2019 Cal. Super. LEXIS 2015.) The City of Santa Monica appealed the trial court decision, which was automatically stayed pursuant to existing law. The California Court of Appeals reversed the trial court's decision finding that minority voters would have to be numerous enough to comprise a majority-minority district in order to win a case under the California Voting Rights Act. (*Pico Neighborhood Association v. City of Santa Monica* (2020) 265 Cal.Rptr.3d 530, at 547) The appeals court wrote that the "reason for the asserted lack of electoral success in Santa Monica would appear to be that there are too few Latinos to muster a majority, no matter how the City might slice itself into districts or wards. At-large voting is not to blame. Small numbers are."

The plaintiffs appealed to the California Supreme Court, which found that the appellate court used an incorrect standard to evaluate the plaintiff's case under the California Voting Rights Act. The Supreme Court agreed that must establish both the racially polarized voting and vote dilution requirements to succeed under the California Voting Right Act, but rejected the requirement that the minority group has to be able to create a minority-majority district. (*Pico Neighborhood Association v. City of Santa Monica* (2023) 15 Cal. 5th 292, at 321-22.) The Supreme Court held that "[u]nlike its federal analogue, the [California Voting Rights Act] prohibits the use of an at-large electoral system that dilutes not only the ability of a protected class 'to elect candidates of its choice,' but also 'its ability to influence the outcome of an election.'" (*Id.* at 323.) The Supreme Court stated that it was expressing no view on the ultimate question of whether the City of Santa Monica's existing election system is consistent with the California Voting Rights Act, and remanded the case to the appellate court to "decide in the first instance whether, under the correct legal standard, plaintiffs have established that at-large elections dilute their ability to elect their preferred candidate; whether plaintiffs have demonstrated the existence of racially polarized voting; and any of the other unresolved issues in the City's appeal." (*Id.* at 324-25.) The case is currently pending in the California Court of Appeals.

4. Stays pending appeals

Section 916 of the Code of Civil Procedure provides a default rule that matters embraced upon an appeal of a trial court order are to be stayed during the pendency of the appeal, except as specified in Sections 917.1 through 917.9, and Section 116.810. Section 1110b of the Code of Civil Procedure provides that if an appeal is made from an order or judgment granting a writ of mandate, the court granting the writ, or the appellate court, may direct that the appeal not be stayed if it is satisfied upon the showing made by the petitioner that the petitioner will suffer irreparable damage in the petitioner's business or profession if the order is stayed.

The California Supreme Court has held that if the “statutory conditions have been met and a stay on appeal is prescribed, the courts lack discretion to deny it except as other statutes may authorize.”⁶ The Court has stated that “the Legislature may always, if it chooses, reexamine California's statutory law governing stays pending appeal and decide whether the law would be better served by an approach that permits courts to take account of a wider array of equitable considerations than does present law.”

As evidenced by the Pico Neighborhood Association case, automatically staying voting rights act cases on appeal can result in further disenfranchising minority voters. Preventing these cases from being automatically stayed promotes the public policy of democratic and fair elections. Undoing district-based elections, should the decision be overturned on appeal, does not appear to place an undue burden on the municipality. The City of Santa Monica was opposed to this bill when it was in the Assembly; however, it has removed its opposition since amendments were adopted to provide that the bill’s provisions do not apply to a judgment or order entered in or action commenced on or before January 1, 2026. As such, the Pico Neighborhood Association case currently pending in the appeals court would continue to be stayed during the pendency of the appeal should this bill be enacted.

5. Amendments

Under the bill, an order of the trial court is required to be stayed upon appeal if the Attorney General and Secretary of State file a certification in the trial court declaring that staying enforcement of a judgment or order pending appeal is either: (1) in furtherance of the purposes of the California Voting Rights Act of 2001 or the FAIR MAPS Act of 2023, as applicable; or (2) otherwise necessary for the orderly administration of the state’s elections. It is understandable that if an election is imminent, not staying a trial court order changing the way an elections is to be conducted could affect the administration of state elections and be overly burdensome, if not impossible for the Secretary of State to implement. It is less clear how and when the first provision would occur. It is also unclear if this provision would potentially conflict with the separation of powers doctrine by allowing constitutional officers in the executive branch to decide whether a trial court order furthers the purposes of existing voting rights statutes. In light of these concerns, the author has agreed to remove this provision from the bill.

The specific amendment to address the concerns raised with the provision that requires a trial court order to be stayed pending appeal if the Attorney General and Secretary of State file a certification stating that the stay would further the purpose of the California Voting Rights Act of 2001 or the FAIR MAPS Act of 2023 are as follows:⁷

⁶ *Ibid.*

⁷ The amendments may also include technical, nonsubstantive changes recommended by the Office of Legislative Counsel as well as the addition of co-authors.

Amendment 1

Subdivision (b) of Section 1 of the bill is amended to read:

(b) It is the intent of the Legislature to ensure that remedial measures ordered by a Superior Court to address violations of the California Voting Rights Act of 2001 or the FAIR MAPS Act of 2023 are implemented promptly regardless of any pending appeal, except where ~~either the Superior Court or both the Attorney General and Secretary of State determine~~ *determines* that such prompt implementation is antithetical to the California Voting Rights Act of 2001, the FAIR MAPS Act of 2023, or the orderly administration of the state's elections.

Amendment 2

Subdivision (b) of Section 917.10 added to the Code of Civil Procedure is amended to read:

(b) Notwithstanding subdivision (a), enforcement of a judgment or order in the trial court ~~shall~~ *may* be stayed upon the perfection of the appeal if the ~~Attorney General and Secretary of State file~~ *files* a certification in the trial court declaring that staying enforcement of a judgment or order pending appeal is ~~either of the following:~~

~~(1) In furtherance of the purposes of the California Voting Rights Act of 2001 or the FAIR MAPS Act of 2023, as applicable.~~

~~(2) Otherwise necessary for the orderly administration of the state's elections.~~

6. Statements in opposition

The opposition takes issue with the recent amendment to the bill that specifies the bill's provisions do not apply to a judgment or order entered in or action commenced on or before January 1, 2026. This amendment effectively allows the case pending against the City of Santa Monica to remain stayed pending appeal.

The Pico Neighborhood Association writes

Originally crafted to curtail the misuse of civil appeals to delay court-ordered transitions to district elections under the California Voting Rights Act, the bill has been undermined by a late-stage amendment that unjustly excludes Santa Monica — one of the very jurisdictions where such a remedy is most urgently needed.

The exclusion of Santa Monica from the protections of AB1079 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.

SUPPORT

None received

OPPOSITION

Pico Neighborhood Association
Santa Monica Northeast Neighbors
Santa Monicans United
Wilshire Montana Neighborhood Coalition
7 Individuals

RELATED LEGISLATION

Pending Legislation: None known.

Prior Legislation:

AB 764 (Bryan, Ch. 343, Stats. 2023) enacted the FAIR MAPS Act of 2023.

AB 849 (Bonta, Ch. 557, Stats. 2019) enacted the FAIR MAPS Act of 2019.

SB 976 (Polanco, Ch. 129, Stats. 2002) enacted the California Voting Rights Act of 2001.

PRIOR VOTES

Assembly Floor (Ayes 55, Noes 16)
Assembly Elections Committee (Ayes 4, Noes 2)
Assembly Judiciary Committee (Ayes 7, Noes 3)
