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

SB 1164 (Cervantes)
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Hearing Date: April 21, 2026
Fiscal: Yes
Urgency: No
AM

SUBJECT

Elections

DIGEST

The bill seeks to revise, update, and expand the California Voting Rights Act (CVRA) to, among other things, apply its provisions to any act of voter suppression by a political subdivision or a state agency and enacts certain preclearance provisions.

EXECUTIVE SUMMARY

This bill is set to be heard in the Senate Elections and Constitutional Amendments Committee on the same day as it is set to be heard in this Committee. As such, this analysis was complete before the bill was heard in the Senate Elections and Constitutional Amendments Committee. The bill will only be heard in this Committee if it passes the Senate Elections and Constitutional Amendments Committee.

The Federal Voting Rights Act of 1965 (FVRA) has long acted as a bulwark for fighting voter suppression across the nation. However, several U.S. Supreme Court cases have weakened the FVRA and a current pending case may render major provisions of it inoperable. In light of this, voting rights advocates have been working across the nation to enact stronger protections at the state level to ensure voting rights continue to be protected.

This bill seeks to update the CVRA, which was enacted in 2001, to expand it to apply to any act of voter suppression, update what constitutes a violation and how a violation can be proved, enact a preclearance provision for certain jurisdictions that have entered into a court-approved settlement agreement admitting liability for, or been subject in any court to a judicial finding of, a violation of the CVRA, FVRA, or constitutional provisions related to voting, and provides notice requirements and opportunity for the jurisdiction to remedy before an action may commence.

The bill is sponsored by a large coalition of voting rights advocacy organizations, including ACLU California Action, League of Women Voters of California, the Legal Defense Fund, and the UCLA Voting Rights. The bill is sponsored by numerous advocacy organizations. No timely opposition was received by the Committee.

PROPOSED CHANGES TO THE LAW

Existing federal law:

1) Provides that the 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. (U.S. Const. amend. XV.)

2) Provides, under the FVRA, that no voting qualification or prerequisite to voting or standard, practice, or procedure shall be imposed or applied by any State or political subdivision in a manner which results in a denial or abridgement of the right of any citizen of the United States to vote on account of race or color, or in contravention of the guarantees set forth in section 10303(f)(2) of this title. (52 U.S.C. § 10301(a).)
    a) Section 10303(f)(2) provides that no person who demonstrates that they have successfully completed the sixth primary grade in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico in which the predominant classroom language was other than English, shall be denied the right to vote in any Federal, State, or local election because of his inability to read, write, understand, or interpret any matter in the English language, except that in States in which State law provides that a different level of education is presumptive of literacy, he shall demonstrate that he has successfully completed an equivalent level of education in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico in which the predominant classroom language was other than English.

3) A violation 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 a class of citizens protected under 1 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. The extent to which members of a protected class have been elected to office in the state or political subdivision is one circumstance which may be considered. These provisions do not establish a right to have members of a protected class elected in numbers equal to their proportion in the population. (*Id*. at (b).)

Existing state law:

1) Establishes the California Voting Rights Act (CVRA) 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.)

2) 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 § 14026.)

3) A violation of 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 § 14027 (a).)
    a) The occurrence of racially polarized voting under a) 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).)
    b) One circumstance that may be considered in determining a violation of is the extent to which candidates who are members of a protected class and who are preferred by voters of the protected class, as determined by an analysis of voting behavior, have been elected to the governing body of a political subdivision that is the subject of an action. (*Ibid*.)
    c) In multiseat at-large election districts, where the number of candidates who are members of a protected class is fewer than the number of seats available, the relative groupwide support received by candidates from members of a protected class shall be the basis for the racial polarization analysis. (*Ibid*.)
    d) The fact that members of a protected class are not geographically compact or concentrated may not preclude a finding of racially polarized voting, or a violation of the CVRA, but may be a factor in determining an appropriate remedy. (*Id*. at subd. (c).)
    e) Proof of an intent on the part of the voters or elected officials to discriminate against a protected class is not required. (*Id*. at subd. (d).)
    f) Other factors such as the history of discrimination, the use of electoral devices or other voting practices or procedures that may enhance the dilutive effects of at-large elections, denial of access to those processes determining which groups of candidates will receive financial or other support in a given election, the extent to which members of a protected class bear the effects of past discrimination in such areas as education, employment, and health, which hinder their ability to participate effectively in the political process, and the use of overt or subtle racial appeals in political campaigns are

probative, but not necessary factors to establish a violation of Section 14027 and this section. (*Id*. at subd. (e).)

4) Authorizes any voter who is a member of a protected class and who resides in a political subdivision where a violation is alleged to file an action in the superior court of the county in which the political subdivision is located. (Elec. Code §14032.)

5) Authorizes the court to award a reasonable attorney's fee to the prevailing party, other than the state or political subdivision thereof, consistent with the standards established in *Serrano v. Priest* (1977) 20 Cal.3d 25, 48-49, and litigation expenses including, but not limited to, expert witness fees and expenses as part of the costs. A prevailing defendant is not to recover any costs, unless the court finds the action to be frivolous, unreasonable, or without foundation. (Elec. Code § 14030.)

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.

2) Provides that a violation 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.

3) Provides that a violation does not exist if both of the following are demonstrated by clear and convincing evidence:
    a) the election policy or practice is necessary to significantly further a compelling and particularized governmental interest; and
    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.

4) 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. A violation 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; or
    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 that in evaluating the totality of the circumstances any of the following factors may be relevant, that no set number or combination of the factors are required to be met to determine that a violation occurred, and that there is no requirement that evidence is required to affect all subgroups within a protected class to be relevant.
    a) The history of discrimination with respect to the relevant protected class.
    b) The extent to which members of the relevant protected class are disadvantaged or otherwise bear the effects of public or private discrimination in such areas as education, employment, health, criminal justice, housing, transportation, land use, or environmental protection.
    c) The use of any election policy or practice that may enhance the discriminatory or diluting effects of the election policy or practice or method of election at issue in the political subdivision.
    d) The extent to which members of the relevant protected class vote or register or reregister to vote at lower rates.
    e) The extent to which members of the relevant protected class have historically made campaign contributions at lower rates.
    f) The extent to which candidates who are members of the relevant protected class have faced hostility or barriers with respect to campaigning, qualifying for the ballot, receiving financial support, or receiving any other support for an election.
    g) The use of overt or subtle racial appeals, whether in the course of political campaigns or by government officials, including racial appeals made in public discourse or in connection with the adoption or maintenance of the election policy or practice.
    h) The extent to which the members of the relevant protected class have been elected to office.
    i) The lack of responsiveness by elected officials to the particular needs of members of the relevant protected class or a community of members of the relevant protected class.

j) Whether the election policy or practice is necessary to significantly further a compelling and particularized governmental interest.
k) Any other factor deemed relevant.

6) Provides that, to determine whether elections in the political subdivision exhibit racially polarized voting, the following applies:
   a) Racially polarized voting is assessed based on the relevant election results, which may include, but are not limited to, elections for offices of the political subdivision; elections held in the political subdivision for other offices, such as state or federal offices; and other electoral choices that bear on the rights and privileges of the protected class.
   b) There is no set number or combination of elections that is required to establish the existence of racially polarized voting.
   c) Proof of nonpolarized voting in elections for offices outside the political subdivision does not preclude a finding of racially polarized voting based on elections for offices of the political subdivision.
   d) Nonstatistical or nonquantitative evidence does not preclude a finding of racially polarized voting based on statistical or quantitative evidence.
   e) Low or high turnout or registration rates among protected class members does not preclude a finding of racially polarized voting.
   f) Elections conducted before the filing of an action alleging vote dilution are more probative to establish the existence of racially polarized voting than elections conducted after the filing of the action.
   g) When assessing the combined candidate preferences, political preferences, or electoral choices of a protected class composed of two or more groups of voters, there is no requirement that each group or subgroup be separately polarized from those of other voters.
   h) The causes of racially polarized voting are not relevant, and the existence of alternative explanations, including partisan explanations, does not preclude a finding of racially polarized voting.
   i) In elections in which voters choose more than one candidate for election to a political body at a time, a finding that some candidates are preferred among both majority and minority voters does not defeat a finding of racially polarized voting.
   j) When evaluating whether a violation of this section is present, all of the following apply:
      i. The following circumstances are not relevant:
         1. The absolute number or share of protected class members on whom the election policy or practice imposes a material burden is small.
         2. The degree to which the election policy or practice has a long pedigree or was in widespread use at some earlier date.
   k) The use of an identical or similar election policy or practice in other states or political subdivisions.

l) The availability of forms of voting unimpacted by the election policy or practice.
m) A state interest in preventing voter fraud or bolstering voter confidence in the integrity of elections is not relevant unless there is substantial evidence that criminal activity by individual electors has occurred in the political subdivision in substantial numbers and the connection between the election policy or practice and a state interest in preventing that type of criminal activity or bolstering voter confidence in the integrity of elections is supported by substantial evidence.
n) Whether protected class members typically elect candidates of their choice to the governing body in approximate proportion to their total number or share of the population may be relevant under paragraph (b).

7) Provides that any provision of state law, regulation, charter, home rule ordinance, or other enactment of the state or any political subdivision relating to voting or the right to vote shall be construed liberally in favor of the factors described below. 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 shall 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; and
   c) ensuring protected class members have full access to relief from discrimination in voting.

8) Authorizes an action to cure a violation to be brought by any individual or entity aggrieved by a violation or by the Attorney General (AG).
   a) Before an individual or entity files an action they must send a notice letter to the political subdivision identifying the potential violation or violations and the type of remedy the party believes may address the potential violation or violations. An action cannot be filed within 45 days after sending the notice letter. However, if any of the following conditions are met the 45-day notice is not required:
      i. The party is seeking a preliminary injunction to secure relief with respect to an upcoming election.
      ii. Another party has already submitted a notice letter alleging a substantially similar violation and that party is eligible to file an action under this section.
      iii. The prospect of obtaining relief would be futile.

9) Authorizes an action to enforce these provisions to be brought in a superior court of suitable jurisdiction, in the Superior Court of the County of Sacramento, or pursuant to paragraph (1) of Section 401 of the Code of Civil Procedure.
    a) Actions brought pursuant to this chapter must be subject to expedited pretrial, trial, and appellate proceedings and receive an automatic calendar preference.
    b) In any action alleging a violation of this chapter in which a plaintiff seeks preliminary relief with respect to an upcoming election, a court shall grant relief if it finds both of the following:
        i. the plaintiff is more likely than not to succeed on the merits; and
        ii. it is possible to implement an appropriate remedy that would resolve the alleged violation in the upcoming election.

10) Requires a court to order appropriate relief that completely remedies the violation.
    a) The court has authority to order remedies that are tailored to best mitigate the violation, including any and all forms of preliminary and injunctive relief. The court may consider, among others, changes to the method of election, changes to any election policy or practice, increases in the size of the governing body of a political subdivision, and any remedy that is available to a federal court or the court of another state jurisdiction, including through a court-approved consent decree or settlement adopted in the context of similar facts or to remedy a similar violation.
    b) In assessing potential remedies to the violation, the court shall consider historic differences in voter registration and turnout rates, including the relative disparities among groups.
    c) To the extent a court evaluates a proposed proportional representation remedy to a violation, in addition to any other considerations, the court shall consider whether the proposed remedy would impair the ability of any other groups to participate in the political process and elect candidates of their choice.
    d) The court shall consider proposed remedies by any parties and interested nonparties.
    e) The court shall not give deference or priority to a remedy proposed by the political subdivision.
    f) A remedy ordered under this section shall be implemented in the next relevant election, scheduled or ordered, wherever possible. The court may order modifications to the election calendar to the extent necessary.

11) Specifies that this bill provides rights and remedies under state law to enforce state constitutional rights or statutory rights and does not enforce any rights established under the United States Constitution or federal law and does not create a cause of action under federal law. Persuasive use of relevant federal legal standards, precedents, or evidentiary frameworks to aid in the interpretation or application of this chapter shall not be construed to give rise to a federal question. Use of federal

legal standards, precedent, or evidentiary frameworks may be persuasive but is not necessary to the interpretation or application of this chapter.

12) Provides that a prevailing plaintiff, other than the state or a political subdivision, is entitled to recover all reasonable costs and fees from the defendant. Costs and fees include, but are not limited to, attorneys' fees, expert witness fees, and all other litigation or prelitigation fees and costs. A plaintiff prevails in an action when, as a result of a suit or notice letter, the defendant party provides some or all of the relief sought.
    a) Limits the ability to receive fees when a plaintiff prevails solely under a notice letter to $25,000 for attorneys fees and $50,000 for all other costs. The limits are to be indexed for CPI, as provided.
    b) A defendant can only recover fees or costs if the court finds the action to be frivolous, unreasonable, or without foundation.

13) Prohibits a political subdivision from asserting any sovereign, governmental, executive, legislative, or deliberative privilege or immunity, including any evidentiary privilege. This does not apply to the attorney-client privilege or any protection for attorney work-product.

14) Requires that any political subdivision which has entered into a court-approved settlement agreement admitting liability for, or been subject in any court to a judicial finding of, a violation of the CVRA, the FVRA, the federal Civil Rights Act of 1964 concerning the right to vote of protected class members, the First, Fourteenth, or Fifteenth Amendments to the United States Constitution concerning the right to vote for protected class members, or any other state or federal law or constitutional provision concerning the right to vote for protected class members within the previous 10 years must obtain preapproval from the AG before enacting or administering any covered practice. 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 deannexation; or
    c) a reduction in language assistance.

15) Requires a request for preapproval to be granted only if both of the following are met:
    a) the covered practice will not diminish, in relation to the status quo before the enactment or implementation of the covered practice, the equal opportunity or ability of members of the protected class or classes who provided a basis for coverage to participate in the political process or elect candidates of choice; and
    b) the covered practice is unlikely to violate any of the bill's provisions.

16) Authorizes any denial for preapproval by the AG to be appealable only by the political subdivision within 30 days of the denial in accordance with state law governing challenges to agency action, including the applicable standard of review for those actions. Such actions may only be filed by the covered political subdivision and intervention is not permitted.
    a) A party that is aggrieved by a determination by the AG to grant preapproval to a covered practice may file an action to challenge the determination to grant preapproval. Such an action is subject to a de novo standard of review.
    b) A determination by the AG to grant preapproval is not admissible in, and is not to be considered by, a court in any subsequent action challenging the covered policy. The preapproval does not preclude, bar, or limit in any way any other claims that may be brought regarding the covered policy.

17) The Legislature finds and declares that this bill addresses a matter of statewide concern rather than a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, it applies to all cities, including charter cities.

COMMENTS

1. Stated need for the bill

The author writes:

> Donald Trump and his conservative allies in Congress and the Supreme Court of the United States are waging a war on voting rights in America. 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 and is poised to overturn what is left of the Act through its pending decision in Louisiana v. Callais. Because the landmark California Voting Rights Act of 2001 only prohibits discriminatory at-large election systems, if the Supreme Court acts, California law would be inadequate to provide voting rights safeguards currently found in the federal Voting Rights Act that have protected California voters for generations. Senate Bill 1164, which is part of the California Voting Rights Act of 2026, will enshrine many of the provisions prohibiting vote dilution, voter suppression, and voter discrimination in the federal Voting Rights Act into state law. The 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.

2. Voting rights law

a. Federal law

The 15th Amendment to the U.S. 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 conditions of servitude." In 1965, Congress determined that state officials were failing to comply with the provisions of the 15th Amendment. As a result, Congress passed and President Johnson signed the FVRA. The FVRA, among other provisions, prohibits any "voting qualification or prerequisite to voting or standard, practice, or procedure" from being imposed by any "[s]tate or political subdivision in a manner which results in a denial or abridgement of the right of any citizen of the United States to vote on account of race or color." (52 U.S.C. § 10301(a).) 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.)

Section 4 of the FVRA set criteria for determining whether a jurisdiction is covered under certain provisions of the FVRA, including the requirement for review of changes affecting voting under Section 5. Section 5 required certain states and covered jurisdictions to receive approval for any changes to laws and practices affecting voting from the U.S. Department of Justice or the U.S. District Court of the District of Columbia to ensure that the changes do not have the purpose or effect of "denying or abridging the right to vote on account of race or color." This process is commonly known as a "preclearance" requirement. When the FVRA was enacted, Section 5 was scheduled to expire in five years. Congress extended its provisions for another five years in 1970, an additional seven years in 1975, and an additional 25 years in 1982, and again for an additional 25 years in 2006. As a result, Section 5 would not be operative in 2031. In 2013, *Shelby County v. Holder* (570 U.S. 529) held that the coverage formula under Section 4 of the FVRA was unconstitutional because it was based on old facts and practices and therefore could not be used to subject jurisdictions to preclearance approval under Section 5 of the FVRA. The Court did not strike down Section 5's preclearance requirement, but unless Congress enacts a new coverage formula under Section 4, no jurisdiction can be subject to Section 5 preclearance.

Section 3 of the FVRA was not struck down in *Shelby v. Holder*. Section 3 provides a remedy for a showing of intentional discrimination and allows a plaintiff to require jurisdictions to get preclearance before new election laws go into effect. Section 3 is the least used provision of the FVRA as proving intentional discrimination is a high bar and the burden of proof lies with the plaintiff bringing the action.

Section 2 of the FVRA prohibits voting practices or procedures that discriminate on the basis of race, color, or membership in one of specified language minority groups. Section 2 applies nationwide to 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, though cases brought under Section 2 have generally challenged at-large election schemes. In 2021, the U.S. Supreme Court decided *Brnovich v. DNC* (594 U.S. 647 (2021).) and upheld certain voting laws in Arizona that disparately affected minority groups, which many voting rights advocates assert makes it more difficult to bring voter suppression claims through the judicial process. A case currently pending at the U.S. Supreme Court, *Louisiana v. Callais* will decide the question of whether Section 2 of the FVRA remains constitutional. Advocates are concerned that if Section 2 is struck down, progress towards more equitable election systems will not only cease but may encourage jurisdictions to return to discriminatory systems.[1]

b. State law

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. When the CVRA was enacted, it had long been recognized that at-large elections, coupled with racially polarized voting patterns, worked to the detriment of racial and ethnic minorities. In such situations, the majority could elect all members of the governing body. District-based elections, on the other hand, allowed racial and ethnic minorities to elect at least some members of the governing body. As a result of the enactment of the CVRA, many municipalities in California have gradually moved toward district-based elections over the past 20 years.[2] 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.

In order to prevail in a CVRA action, the plaintiff must show that racially polarized voting occurs in elections for members of the jurisdiction's governing body. Proving the existence of racially polarized voting usually requires a statistical analysis of past election results showing that members of the protected class consistently vote differently than the rest of the electorate. A plaintiff bringing a CVRA challenge does not need to prove that elected officials or anyone else *intended* to discriminate against

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[1] Michael Li, Brennan Center, *Section 2 of the Voting Rights Act at the Supreme Court*, (Oct. 15, 2025), available at https://www.brennancenter.org/our-work/research-reports/section-2-voting-rights-act-supreme-court.

[2] 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.

the protected class. A system that *results* in the dilution of voting rights of the protected class constitutes a violation, regardless of intent.

If the court finds a violation of the CVRA, it must impose remedies appropriate to correct the violation. Presumably, the most likely goal is to have the political subdivision shift from an at-large election system to a district-based election system, where members of the governing body reside in and represent a particular district and are chosen by voters living in that district. However, this may not always be possible, especially if members of the protected class are not sufficiently concentrated in a geographical area such that they could constitute a workable single-member district. The existing CVRA provides little guidelines as to what other remedies should apply in that case. The CVRA simply says that upon finding a violation, "the court shall implement appropriate remedies, including the imposition of district-based elections that are tailored to remedy the situation." (Elec. Code § 14029.)

Several attempts have been made by the Legislature to expand the CVRA to allow challenges to district-based elections, but these bills were vetoed by then Governor Brown, citing the fact that the FVRA already addressed this issue. (SB 1365 (Padilla, 2014) and AB 182 (Alejo, 2015).) As a response to the *Shelby v. Holder* case, the Legislature enacted AB 1301 (Jones-Sawyer, 2015) to establish a state "preclearance" system under which certain political subdivisions would be required to get approval from the Secretary of State before implementing specified policy changes related to elections. AB 182 was vetoed by then Governor Brown stating "I believe the federal Voting Rights Act and the California Voting Rights Act provide important and sufficient safeguards to ensure that the electoral strength of minority voters is protected."

3. <u>The bill seeks to revise and update the CVRA in light of the continual weakening of the FVRA</u>

In light of the continued weakening of the FVRA and the potential for Section 2 to be completely struck down, this bill seeks to update and expand the CVRA. The bill does this in several ways. First, it expands the CVRA to apply to all types of voter suppression, including vote dilution, and any type of election system. Under the vote dilution provisions of the bill, a plaintiff has to establish two elements: (1) an "impairment" element; and (2) a "benchmark" against which to measure the impairment. Impairment cans be shown by proving racially polarized voting exists and that it results in an impairment in the ability of the protected class of voters to nominate or elect candidates of choice, which stems from federal law. A second way impairment can be shown is under a totality of the circumstances argument, with specified factors provided. Additionally, it expands the fees provision by removing any reference to fees awarded being consistent with the standards established in *Serrano v. Priest* (1977) 20 Cal.3d 25, 48-49 and instead states that a prevailing plaintiff is entitled to recover all

reasonable fees and costs, with limits on fees for a plaintiff who prevails solely due to a notice letter.

The bill enacts a state preclearance or preapproval provision, similar to the one under Section 5 of the FVRA, for any political subdivision that has entered into a court-approved settlement agreement admitting liability for, or been subject in any court to a judicial finding of, a violation of the CVRA, the FVRA, the federal Civil Rights Act of 1964 concerning the right to vote of protected class members, the First, Fourteenth, or Fifteenth Amendments to the United States Constitution concerning the right to vote for protected class members, or any other state or federal law or constitutional provision concerning the right to vote for protected class members within the previous 10 years. The bill enacts certain democracy canons that instruct the courts to interpret the bill's provisions liberally to effectuate the fundamental right to vote and participate in the democratic process and safeguards and vindicates, 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.

In order to effectuate the democracy canons, the bill requires a court to order appropriate relief that completely remedies the violation. An ordered remedy is required to be implemented in the next relevant election, scheduled or ordered, wherever possible. The court may order modifications to the election calendar to the extent necessary. The bill prohibits a political subdivision from asserting any sovereign, governmental, executive, legislative, or deliberative privilege or immunity, including any evidentiary privilege; however, this does not apply to the attorney-client privilege or any protection for attorney work-product. The bill makes it clear that it is creating a state cause of action to enforce state constitutional and statutory rights and does not create a cause of action under federal law.

4. Statements in support

The sponsors of the bill write in support stating:

> If passed, the CVRA of 2026 bill package would be one of the most comprehensive VRAs in the country, building upon California's history as the first state to codify a state-level voting rights act. Since the original CVRA was passed 25 years ago, seven other states have passed their own VRAs, several of which are more comprehensive than California's. […]
>
> 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. These threats come after the Supreme Court has already undercut the VRA's core protections twice within the past 15 years.

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 ballots rejections for voters of color, and lack of access to voting materials in county jails.

In addition, as election deniers have taken control of some local governments, we have seen increasing efforts to sow chaos in California's elections. In 2023, for example, Shasta County abruptly terminated its contract with Dominion Voting Systems, opting instead to hand-count ballots based on the debunked claim that the 2020 presidential election was stolen. In 2024, the City of Huntington Beach passed a voter ID requirement for its elections, attempting to create unnecessary barriers for eligible voters. And, just this month, Riverside County Sheriff Chad Bianco seized hundreds of thousands of ballots from the 2025 special election based solely on what appears to be a gross misrepresentation of how elections officials process ballots. Although these actions were promptly challenged, they demonstrate that local attacks on voting rights will continue and will increasingly take new, creative, and harmful forms.

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.

California is leading the nation in responding to threats to our democracy. Almost 25 years ago, the CVRA of 2001 demonstrated the transformative impact of strong state-level protections. SB 1164 matches the energy of California legislative leaders and gives Californians the tools to go further, protecting voters from evolving threats, expanding access, and ensuring that all voters can fully participate in our democracy. […]

SUPPORT

The California Democracy Partnership (sponsor)
AAPIs for Civic Empowerment (sponsor)
ACLU California Action (sponsor)
Asian Law Caucus (sponsor)
California Common Cause (sponsor)
California Environmental Voters (sponsor)
Catalyst California (sponsor)
CHIRLA (sponsor)
Inland Empire United (sponsor)
League of Women Voters of California (sponsor)

Legal Defense Fund (sponsor)
Mexican American Legal Defense and Educational Fund (MALDEF) (sponsor)
Partnership for the Advancement of New Americans (sponsor)
Power California (sponsor)
SEIU California (sponsor)
UCLA Voting Rights Project (sponsor)
AFSCME, AFL-CIO
Black Leadership Council
California Clean Money Campaign
California Domestic Workers Coalition
California Federation of Labor
California Federation of Teachers
Campaign Legal Center
Courage California
Dolores Huerta Foundation
FairVote Action
Hmong Innovating Politics
NextGen California
Starting Over Inc.
Starting Over Strong
VietRISE

OPPOSITION

None received

RELATED LEGISLATION

Pending Legislation: None known.

Prior Legislation:

AB 1079 (Ávila Farías, Ch. 178, Stats. 2025) provided 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, as provided.

AB 1301 (Jones-Sawyer, 2015) would have established, in the wake of *Shelby v. Holder*, a state "preclearance" system under which certain political subdivisions are required to get approval from the Secretary of State before implementing specified policy changes related to elections. AB 1301 was vetoed by the Governor Brown stating "I agree that the impairment of key provisions in the federal Voting Rights Act deserves a national

remedy, I am unconvinced that a California-only pre-clearance system is needed." (*See* Comment 2.)

AB 182 (Alejo, 2015) would have expanded the CRA to allow challenges to district-based elections. AB 182 was vetoed by then Governor Brown, stating, "I believe the federal Voting Rights Act and the California Voting Rights Act provide important and sufficient safeguards to ensure that the electoral strength of minority voters is protected." (*See* Comment 2.)

SB 1365 (Padilla, 2014) would have expanded the CRA to allow challenges to district-based elections. SB 1365 was vetoed by then Governor Brown, stating, "the federal Voting Rights Act and the California Voting Rights Act already provide important safeguards to ensure that the voting strength of minority communities is not diluted." (*See* Comment 2.)

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

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