

Introduced by Senator Polanco

February 23, 2001

An act to add Chapter 1.5 (commencing with Section 14025) to Division 14 of the Elections Code, relating to voting rights.

LEGISLATIVE COUNSEL'S DIGEST

SB 976, as amended, Polanco. Elections: rights of voters.

Existing law provides for political subdivisions that encompass ~~municipal~~ areas of representation within the state. With respect to these ~~municipal~~ areas, public officials are generally elected by all of the voters of the political subdivision (at-large) or from districts formed within the political subdivision (district-based).

Existing law generally allows the voters of the entire political subdivision to determine whether the elected public officials are elected by divisions or by the entire political subdivision.

This bill would provide that ~~a municipal political subdivision may not be subdivided~~ *an at-large method of election, as defined, may not be imposed or applied* in a manner that results in ~~a denial~~ *the dilution* or abridgment of the right of ~~a registered voter to vote on account of membership in a minority race, color or language group~~ *registered voters who are members of a protected class, as defined, by impairing their ability to elect candidates of their choice or to influence the outcome of an election.*

This bill would provide that a violation of its provisions shall be established if it is shown that racially polarized voting, as defined, occurs in elections for governing board members of a ~~municipal~~ political subdivision, *among other things*. It would provide that an

intent to discriminate against a protected class, as defined, is not required to establish a violation of this bill.

This bill would authorize a court to impose appropriate remedies, including district-based elections, and to award a prevailing nonstate or nonlocal government plaintiff party reasonable attorney’s fees consistent with specified case law as part of the costs.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 1.5 (commencing with Section 14025)
2 is added to Division 14 of the Elections Code, to read:

3

4 CHAPTER 1.5. RIGHTS OF VOTERS

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6 14025. This act shall be known and may be cited as the
7 California Voting Rights Act of 2001.

8 14026. As used in this chapter:

9 ~~(a) “At-large method of election” means any method of~~
10 ~~electing members to the governing body of a municipal political~~
11 ~~subdivision in which the voters of the entire jurisdiction elect the~~
12 ~~members of the governing body, and does not include any method~~
13 ~~of district-based elections.~~

14 (a) *“At-large method of election” means any of the following*
15 *methods of electing members to the governing body of a political*
16 *subdivision, and does not include any method of district-based*
17 *elections:*

18 (1) *One in which the voters of the entire jurisdiction elect the*
19 *members to the governing body.*

20 (2) *One in which the candidates are required to reside within*
21 *given areas of the jurisdiction and the voters of the entire*
22 *jurisdiction elect the members to the governing body.*

23 (3) *One which combines at-large elections with district-based*
24 *elections.*

25 (b) *“District-based election” means a method of electing*
26 *members to the governing body of a ~~municipal~~ political*
27 *subdivision in which the candidate must reside within an election*
28 *district that is a divisible part of the ~~municipal~~ political subdivision*
29 *and is elected only by voters residing within that election district.*



1 ~~(c) “Minority language group” means persons who are~~
2 ~~American Indian, Asian American, Alaskan Native, or of Spanish~~
3 ~~heritage.~~

4 ~~(d) “Municipal political~~

5 ~~(c) “Political subdivision” means a geographic area of~~
6 ~~representation created for the provision of municipal government~~
7 ~~services, including, but not limited to, a city, a school district, a~~
8 ~~community college district, or other local district district~~
9 ~~organized pursuant to state law.~~

10 ~~(e)~~

11 ~~(d) “Protected class” means a class of voters who are members~~
12 ~~of a minority race, color or language group, as this class is~~
13 ~~referenced and defined in the federal Voting Rights Act (42 U.S.C.~~
14 ~~Sec. 1973 et seq.).~~

15 ~~(f) “Racially polarized voting” means voting in which there is~~
16 ~~a consistent difference in the way voters of an identifiable class~~
17 ~~based on a minority race, color or language group vote and the way~~
18 ~~the rest of the electorate vote in a municipal political subdivision.~~

19 ~~14027. A municipal political subdivision may not be~~
20 ~~subdivided in a manner that results in a denial or abridgment of the~~
21 ~~right of any registered voter to vote on account of membership in~~
22 ~~a minority race, color or language group.~~

23 ~~(e) “Racially polarized voting” means voting in which there is~~
24 ~~a difference in the choice of candidates or other electoral choices~~
25 ~~that are preferred by voters in the protected class, and in the choice~~
26 ~~of candidates and electoral choices that are preferred by voters in~~
27 ~~the rest of the electorate. The methodologies for estimating group~~
28 ~~voting behavior as approved in applicable federal cases to enforce~~
29 ~~the federal Voting Rights Act (42 U.S.C. Sec. 1973 et seq.) to~~
30 ~~establish racially polarized voting may be used for purposes of this~~
31 ~~section to prove that elections are characterized by racially~~
32 ~~polarized voting.~~

33 ~~14027. An at-large method of election may not be imposed or~~
34 ~~applied in a manner that results in the dilution or the abridgment~~
35 ~~of the rights of registered voters who are members of the protected~~
36 ~~class, as provided in Section 14028, by impairing their ability to~~
37 ~~elect candidates of their choice or their ability to influence the~~
38 ~~outcome of an election.~~

39 14028. (a) A violation of Section 14027 is established if it is
40 shown that racially polarized voting occurs in elections for



1 members of the governing body of a ~~municipal political~~
2 ~~subdivision~~ *political subdivision or in elections incorporating*
3 *other electoral choices by the voters of the political subdivision.*

4 ~~(b) The occurrence of racially polarized voting shall be~~
5 ~~determined from examining results of elections in which~~
6 ~~candidates are members of a protected class. One circumstance~~
7 ~~that may be considered is the extent to which candidates who are~~
8 ~~members of a protected class have been elected to the governing~~
9 ~~body of a municipal political subdivision that is the subject of an~~
10 ~~action based upon Section 14027.~~

11 *(b) The occurrence of racially polarized voting shall be*
12 *determined from examining results of elections in which*
13 *candidates are members of a protected class or elections involving*
14 *ballot measures, or other electoral choices that affect the rights*
15 *and privileges of members of the protected class. One*
16 *circumstance that may be considered is the extent to which*
17 *candidates who are members of a protected class have been elected*
18 *to the governing body of a political subdivision that is the subject*
19 *of an action based on Section 14027 and this section. In multi-seat*
20 *at-large districts, where the number of candidates who are*
21 *members of a protected class is fewer than the number of seats*
22 *available, the relative group-wide support received by candidates*
23 *from members of the protected class shall be the basis for the racial*
24 *polarization analysis.*

25 (c) The fact that members of a protected class are not
26 geographically compact or concentrated may not preclude a
27 finding of racially polarized voting, but may be a factor in
28 determining an appropriate remedy.

29 (d) Proof of an intent on the part of the voters or elected
30 officials to discriminate against a protected class is not required.

31 *(e) Other factors such as the history of discrimination, the use*
32 *of electoral devices or other voting practices or procedures that*
33 *may enhance the dilutive effects of at-large elections, denial of*
34 *access to those processes determining which groups of candidates*
35 *will receive financial or other support in a given election, the*
36 *extent to which members of the protected class bear the effects of*
37 *past discrimination in areas such as education, employment, and*
38 *health, which hinder their ability to participate effectively in the*
39 *political process, and the use of overt or subtle racial appeals in*



1 *political campaigns, may also be introduced as evidence but these*
2 *factors are not necessary to establish a violation of this section.*

3 14029. Upon a finding of a violation of Section 14027 and
4 Section 14028, the court shall implement appropriate remedies,
5 including the imposition of district-based elections ~~in place of~~
6 ~~at large districts~~, that are tailored to remedy the violation.

7 14030. In any action to enforce Section 14027, the court shall
8 allow the prevailing plaintiff party, other than the state or political
9 subdivision thereof, a reasonable attorney's fee consistent with the
10 standards established in *Serrano v. Priest* (1977) 20 Cal.3d 25, at
11 *including* pages 48 and 49, as part of the costs. Prevailing plaintiff
12 parties, other than the state or political subdivision thereof, shall
13 recover their expert witness fees and expenses as part of the costs.

14 14031. *This chapter is enacted to implement the guarantees*
15 *of Section 7 of Article I and of Section of Article II of the California*
16 *Constitution.*

