

AMENDED IN ASSEMBLY MARCH 18, 2002

AMENDED IN SENATE MAY 1, 2001

SENATE BILL

No. 976

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 areas of representation within the state. With respect to these 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 an at-large method of election, as defined, may not be imposed or applied in a manner that results in the dilution or abridgment of the right of 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 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 *and expenses* consistent with specified case law as part of the costs.

This bill would permit a member of a protected class to file an action pursuant to this bill under specified circumstances.

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:

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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 of the following
10 methods of electing members to the governing body of a political
11 subdivision, ~~and does not include any method of district-based~~
12 ~~elections~~:

13 (1) One in which the voters of the entire jurisdiction elect the
14 members to the governing body.

15 (2) One in which the candidates are required to reside within
16 given areas of the jurisdiction and the voters of the entire
17 jurisdiction elect the members to the governing body.

18 (3) One which combines at-large elections with district-based
19 elections.

20 (b) “~~District-based election~~” *elections*” means a method of
21 electing members to the governing body of a political subdivision
22 in which the candidate must reside within an election district that
23 is a divisible part of the political subdivision and is elected only by
24 voters residing within that election district.

25 (c) “Political subdivision” means a geographic area of
26 representation created for the provision of government services,



1 including, but not limited to, a city, a school district, a community
2 college district, or other district organized pursuant to state law.

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

7 (e) “Racially polarized voting” means voting in which there is
8 a difference in the choice of candidates or other electoral choices
9 that are preferred by voters in the protected class, and in the choice
10 of candidates and electoral choices that are preferred by voters in
11 the rest of the electorate. The methodologies for estimating group
12 voting behavior as approved in applicable federal cases to enforce
13 the federal Voting Rights Act (42 U.S.C. Sec. 1973 et seq.) to
14 establish racially polarized voting may be used for purposes of this
15 section to prove that elections are characterized by racially
16 polarized voting.

17 14027. An at-large method of election may not be imposed or
18 applied in a manner that results in the dilution or the abridgment
19 of the rights of ~~registered~~ voters who are members of the protected
20 class, as provided in Section 14028, by impairing their ability to
21 elect candidates of their choice ~~or~~ or their ability to influence the
22 outcome of an election.

23 14028. (a) A violation of Section 14027 is established if it is
24 shown that racially polarized voting occurs in elections for
25 members of the governing body of *the* political subdivision or in
26 elections incorporating other electoral choices by the voters of the
27 political subdivision. *Elections conducted prior to the filing of an*
28 *action pursuant to Section 14027 and this section are more*
29 *probative to establish the existence of racially polarized voting*
30 *than elections conducted after the filing of the action.*

31 (b) The occurrence of racially polarized voting shall be
32 determined from examining results of elections in which
33 candidates are members of a protected class or elections involving
34 ballot measures, or other electoral choices that affect the rights and
35 privileges of members of the protected class. One circumstance
36 that may be considered *in determining a violation of Section 14027*
37 *and this section* is the extent to which candidates who are members
38 of a protected class *and who are preferred by voters of the protected*
39 *class, as determined by an analysis of voting behavior,* have been
40 elected to the governing body of a political subdivision that is the



1 subject of an action based on Section 14027 and this section. In
2 multiseat at-large districts, where the number of candidates who
3 are members of a protected class is fewer than the number of seats
4 available, the relative groupwide support received by candidates
5 from members of the protected class shall be the basis for the racial
6 polarization analysis.

7 (c) The fact that members of a protected class are not
8 geographically compact or concentrated may not preclude a
9 finding of racially polarized voting, *or a violation of Section 14027*
10 *and this section*, but may be a factor in determining an appropriate
11 remedy.

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

14 (e) Other factors such as the history of discrimination, the use
15 of electoral devices or other voting practices or procedures that
16 may enhance the dilutive effects of at-large elections, denial of
17 access to those processes determining which groups of candidates
18 will receive financial or other support in a given election, the
19 extent to which members of the protected class bear the effects of
20 past discrimination in areas such as education, employment, and
21 health, which hinder their ability to participate effectively in the
22 political process, and the use of overt or subtle racial appeals in
23 ~~political campaigns, may also be introduced as evidence but these~~
24 ~~factors are not necessary to establish a violation of this section.~~
25 *political campaigns are probative, but not necessary factors to*
26 *establish a violation of Section 14027 and this section.*

27 14029. Upon a finding of a violation of Section 14027 and
28 Section 14028, the court shall implement appropriate remedies,
29 including the imposition of district-based elections, that are
30 tailored to remedy the violation.

31 14030. In any action to enforce Section 14027 *and Section*
32 *14028*, the court shall allow the prevailing plaintiff party, other
33 than the state or political subdivision thereof, a reasonable
34 attorney's fee consistent with the standards established in *Serrano*
35 *v. Priest* (1977) 20 Cal.3d 25, including pages 48 and 49, *and*
36 *litigation expenses including, but not limited to, expert witness fees*
37 *and expenses* as part of the costs. ~~Prevailing plaintiff parties, other~~
38 ~~than the state or political subdivision thereof, shall recover their~~
39 ~~expert witness fees and expenses as part of the costs.~~ *Prevailing*



1 *defendant parties shall not recover any costs, unless the court finds*
2 *the action to be frivolous, unreasonable, or without foundation.*

3 14031. This chapter is enacted to implement the guarantees of
4 Section 7 of Article I and of Section 2 of Article II of the California
5 Constitution.

6 14032. *Any voter who is a member of the protected class and*
7 *who resides in a political subdivision that is the subject of an action*
8 *filed pursuant to Sections 14027 and 14028 may file an action*
9 *pursuant to those sections in the superior court of the county in*
10 *which the political subdivision is located.*

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12 CORRECTIONS

13 **Text — Page 3.**

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