

AB 350 (Alejo):

Expanding the California Voting Right Act 2001

As Amended in Assembly, January 4, 2016

Last updated: January 11, 2016

PURPOSE OF THE BILL

Under existing law, only at-large elections can be challenged using the California Voting Rights Act of 2001.

AB 350 will expand the California Voting Rights Act of 2001 to allow challenges to district-based elections that are being imposed or applied in a manner that impairs the ability of a protected class of voters to elect candidates of their choice.

PROBLEM & NEED FOR THE BILL

Both the Federal and the California Voting Rights Acts were landmark pieces of legislation that sought to prohibit and prevent discriminatory voting practices.

Currently, the California Voting Rights Act (CVRA) only permits challenges to at-large election systems, and allows the courts during a challenge to order "appropriate remedies" to protect the voting rights of a minority community. A court ordered remedy may even include the imposition of district-based elections.

The only available mechanism in California to challenge redistricting those results in minority vote dilution is federal-court challenge under section 2 of the VRA. Although RPV is a central concern under section 2, the applicable overall test that plaintiffs must satisfy is the "totality of the circumstances." Because the Supreme Court-adopted "totality" standard is so broad, section 2 cases are extremely expensive for both plaintiffs and defendants, involving multiple expert witnesses and thousands of pages of evidence. In the end, these costs end up being paid by a defendant local government that loses a section 2 case.

Nonetheless, the costs are so daunting to plaintiffs that there are only three organizations in California with section 2 experience, and they could not possibly wage the number of challenges that local redistricting in California appears to require.

WHAT THIS BILL WOULD DO

AB 350 would allow for challenges to district-based elections systems where the districts are drawn in a manner that impairs the ability of a protected class of voters to elect candidates of their choice. In this context, the court may issue a range of remedies all provided within the framework of a districted system.

In addition, a court may issue "additional" remedies that are already available under the existing CVRA. AB 350 provides a non-exhaustive list of remedies intended to provide guidance for courts and local governing bodies considering possible remedial action. However, as noted above, if such measures are ordered under AB 350, they must be implemented in the context of a district-based election system.

BILL STATUS

Referred to the Assembly Committee Election and Redistricting, and Assembly Committee Judiciary

SUPPORT

American Civil Liberties Union of California
Asian Americans Advancing Justice, Los Angeles
California Common Cause
Mexican American Legal Defense and Education Fund
Nat. Assoc. for the Advancement of Color People
Nat. Assoc. of Latino Elected and Appointed Officials
Lawyer's Committee of San Francisco Bay Area
League of Women Voters of California
Secretary of State, Alex Padilla