

California Voting Rights Act (CVRA)



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What is the California Voting Rights Act (CVRA)?

- The CVRA is a California state law that was enacted to implement the California constitutional guarantees of equal protection and the right to vote.
- Provides a private right of action to members of a protected class whose ability to elect candidates of their choice or influence the outcome of elections is impaired due to at-large elections.
- Focus is to eliminate racially polarized voting.

What is the FAIR Maps Act?

- In October 2019, the California legislature passed the Fair and Inclusive Redistricting for Municipalities and Political Subdivision Act (FAIR Maps Act or Act).
- The FAIR Maps Act requires cities to redraw district map boundaries after each census and requires additional outreach and public hearings.
- The Act is intended to provide a more streamline and political neutral approach to redistricting efforts.

At-Large vs. By-District Elections

- At-Large – an election system in which the voters of the entire jurisdiction elect the members to the governing body.
- By-District – an election system in which the candidate must reside within a district and is elected only by voters residing within that district.

What is Racially Polarized Voting?

- Voting in which there is a difference, in the choice of candidates that are preferred by voters in a protected class, and in the choice of candidates that are preferred by voters in the rest of the electorate.
 - Protected class means a class of voters who are members of a race, color, or language minority group.

Factors to Determine Racially Polarized Voting

- Examining results of elections in which at least one candidate is a member of a protected class.
- Proof of intent to discriminate against a protected class is not required.
- Probative factors:
 - History of discrimination
 - Dilutive effects of at-large elections
 - Denial of access
 - Extent of past discrimination
 - Use of overt or subtle racial appeals in political campaigns

What Now?

- Many cities and political districts have recently been served with demand letters to force the districts to comply with the CVRA.
 - If you receive a demand letter, the potential plaintiff is entitled to \$30,000.
 - The timeline in which to implement districts is approximately 4 months from the date the demand letter is received.
- Some cities and political districts are choosing to implement district elections to avoid a demand letter and potential litigation.

Demand Letter Timeline

- Day 1: Agency receives a demand letter
- Day 45: Agency adopts a resolution to move to district elections
 - 90 day stay on any potential litigation
- Day 46: Agency prepares at least two public hearings over no more than 30 days
- Day 76: Agency draws district maps based on feedback from hearings
- Day 80: Agency releases draft maps to the public
- Day 87: Agency holds at least two more additional hearings
- Day 90: Agency adopts a resolution creating districts
- Day 91: Agency settles with potential plaintiff for \$30k

Demographics of Beaumont

- According to the 2010 census, Beaumont has a population of approximately 36,000 residents.
- The racial makeup up the city is 42% white, 40% Hispanic or Latino, 6.2% African American, and 1.5% Native American.
- A demographer can be hired to give a full accounting of the demographics of the city.
 - Including where there are high concentrations of certain racial groups.



Potential for Liability

- Generally, cities with a history of racially polarized voting are being targeted to move to district elections.
- Especially those cities that do not currently have elected officials that reflect the racial diversity of the community.
- Beaumont currently has a diverse city council and may not be considered high risk for a threat of litigation.
- However, the legislature intended for all cities in California to eventually move to district elections.

Option 1: Wait for a Demand Letter

- Wait to receive a demand letter.
 - Attempt to negotiate a more favorable timeline for implementation.
 - Proceed directly to litigation.
 - Implement district elections.

Option 2: Move to District Elections

- Begin the process of district elections.
- Hire a demographer.
- Create an outreach plan.
- Hold public meetings.
- Implement district elections.

Option 3: Conduct Demographic Study

- Hire a demographer to provide a detailed account of the demographics within the City.
- Based on the information provided, determine whether to move in the direction of districting as well as the risk of litigation.

City of Banning

- In June 2016, the City of Banning, California adopted a five council district plan.
- While smaller in size, Banning's demographic breakdown is similar to that of Beaumont.
- However, Banning did not have as diverse a city council as Beaumont.



By-District Cities in Riverside County

- Banning
- Cathedral City
- Corona
- Eastvale
- Hemet
- Indio
- Jurupa Valley
- Lake Elsinore
- Menifee
- Moreno Valley
- Palm Springs
- Palm Desert (currently in the process)
- Rancho Mirage (received a demand letter)
- Riverside
- Temecula
- Wildomar

Summary

- No district has prevailed in a CVRA action.
- The intent of the CVRA is for all cities and political districts to eventually move to a district election system.
- Potential for costly litigation.
- Cities and political districts that move to a district election system on their own volition will save money.