

The California Voting Rights Act in 2018

The Impact of Model Civil Rights Legislation on Discriminatory Voting Practices

The California Voting Rights Act (CVRA) was signed into law in 2002 to address the persistent problem of minority voters having their votes diluted by at-large elections.¹ After the CVRA was ruled constitutional by the California Court of Appeal in *Sanchez v. City of Modesto* in late 2006, the CVRA began to have measurable, important effects. To date, at least 335 local jurisdictions in California – school and community college boards, city councils, and special districts – have shifted from at-large elections to by-district or alternative voting systems or are in the process of doing so. Looking at school districts alone, districts that have shifted because of the CVRA have seen a 60% increase in Latino representation between 2007 and 2017.²

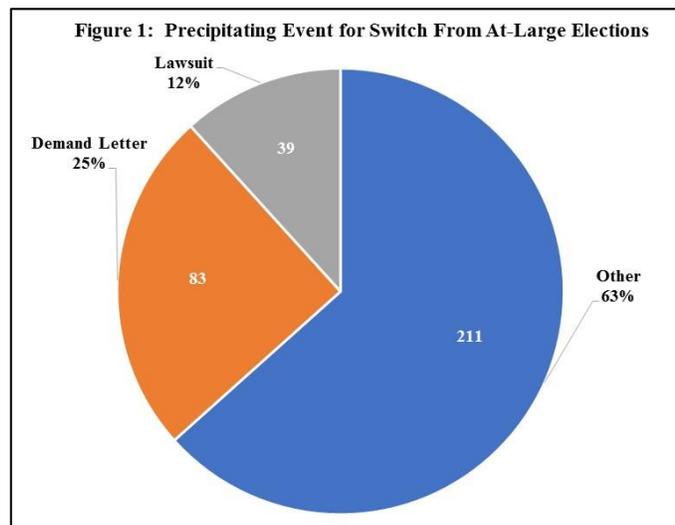
These advances form a stark contrast to the assault on voting rights across the rest of the United States during this period. Hobbled by adverse U.S. Supreme Court decisions, including the 2013 ruling in *Shelby County v. Holder*, which negated the most successful part of the federal Voting Rights Act (VRA), many of the gains achieved under the federal Voting Rights Act have steadily regressed. California’s leadership in protecting against minority vote dilution as other states roll back these important civil rights protections deserves celebration as we look at the impact the law has had in the nearly 20 years since its passage.

Compliance with the CVRA

Civil rights statutes have historically faced staunch resistance, and the CVRA is no exception. But after surviving initial challenges to its validity, the CVRA has resulted in more than 300 jurisdictions complying with the statute. Of course, there are times when a jurisdiction where racially polarized voting is a barrier to minority representation will refuse to implement changes to their election system without a threat of litigation or actual litigation, although only four cases have gone to full trials under the CVRA.

But in more than two-thirds of jurisdictions, transitions to district elections have not been the result of lawsuits or demand letters. (Figure 1)

Instead the changes were initiated by the governing bodies to achieve compliance with the law, either due to their own review to ensure their compliance, upon the advice of counsel, or due to community pressure for an electoral change or other political considerations. In addition, legislation was passed in 2016 and 2018 to provide a safe harbor to all jurisdictions to allow time for a conversion before they can be sued.



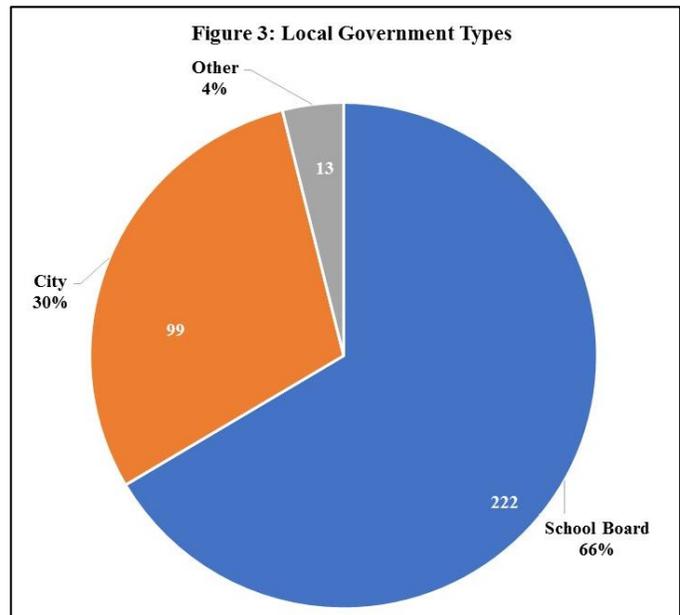
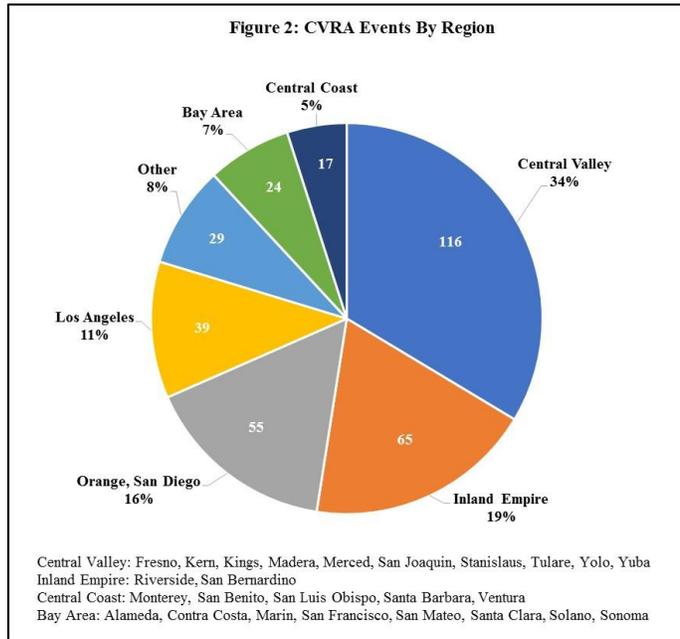
¹ SB 976 (Polanco), 2002.

² The data and analysis of the CVRA referenced throughout this fact sheet is based on the research of Prof. J. Morgan Kousser of Caltech. Since 2009, Prof. Kousser has been collecting data about voting rights cases, Department of Justice objections and other actions under Section 5 of the national Voting Rights Act, settlements of such cases, and changes in local election systems under the CVRA or other changes in local governmental structures that could be explicitly attributed to the CVRA.

Impact by Region and Type of Governing Body

At first primarily concentrated in the Central Valley and affecting school and community college boards, changes under the CVRA eventually reached all areas of the state. And while CVRA cases initially focused on the voting rights of Latinos, the CVRA is now being used to protect the voting rights of California’s growing Asian-American population, including in the cities of Santa Clara and Fullerton.

Figure 2 demonstrates the statewide reach of the law by regions, and Figure 3 shows that the majority of changes in election structure have been in school boards. Legislation passed in 2015 and 2016 gave cities the flexibility to convert from at-large elections to districts via ordinance without submitting the ordinance to voters for approval. Since then, more city councils have begun to adopt changes in their election structures under the CVRA to protect against the vote dilution of underrepresented communities.



Impact on Minority Representation

The CVRA is working to achieve the core goal of this important piece of civil rights legislation: to eliminate the barriers underrepresented communities face to representation and service on local governing bodies.

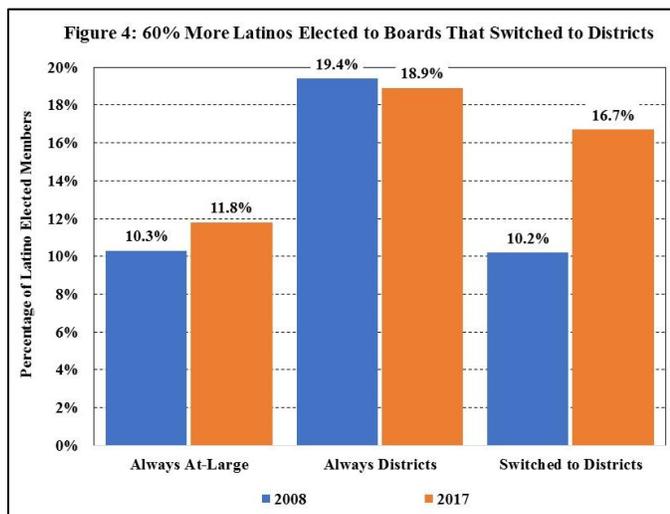
Because the CVRA really only began to be used in 2007 after surviving initial legal challenges, the most comprehensive way to assess its effects on the election of minorities is to compare the number of Latino elected officials in each district in January 2008, with that in January 2017 (the most recent data available from the

National Association of Latino Elected Officials). Because 80% of the city councils that have shifted to districts have done so only since January 2016, it is preferable to focus on school boards, where more election cycles have passed.

To make sure the comparison between 2008 and 2017 does not simply reflect a time trend toward electing more Latinos, one should compare those school boards that have shifted to districts as a result of the CVRA with two other categories of school boards during the same time period: those that already had districts in 2008 and kept them, and those that remained at-large. Using that analysis reveals that 60% more Latinos have been elected to school boards that switched to districts.

Figure 4 shows that while Latino representation grew somewhat on school boards that kept the at-large structure (from 10.3% to 11.8% of the total members), the proportion of Latinos elected under at-large systems was only about half of that on school boards that had been elected by district before 2008 (10.3% compared to 19.4%). But the percentage of Latinos elected in the always-district systems stayed roughly constant from 2008 through 2017. The major contrast is between the districts that continued to elect members at-large and those that switched to districts. In 2008, the percentages of Latinos elected in at-large systems was equal in both groups of school boards (10.3% and 10.2%). But while the proportion elected in the always at-large system grew by 14.6% over the 9-year period, the proportion of Latinos elected to the boards that switched to districts grew by 63.7%.

And of course, the true long-term impact of the CVRA will not be realized for many years to come, as several jurisdictions have had only one or two elections cycles since reforming their election systems, and leadership development and electoral organizing take time.



Impact on Local Policy and Civic Engagement

In addition to an increase in the number of representatives elected from underrepresented communities, the CVRA has a qualitative impact on the policies that impact those communities. Looking again at school boards, studies have shown that:

- Higher levels of Hispanic representation on school boards is directly associated with larger numbers of Hispanic school administrators.³
- Increased Hispanic representation on school boards and in school administration both lead to an increase in Hispanic teaching staffs.⁴
- Higher levels of Hispanic presence among district teaching staffs are associated with improved educational results for Hispanic students, as measured by outcomes such as graduation rates, dropout rates, enrollment in advanced placement classes, suspensions, expulsions, and standardized test scores, even when controls are applied.⁵
- A 2010 survey showed that Hispanic trustees are more concerned about issues such as levels of college attendance, or school and community conditions, while white trustees were more concerned with the involvement of state and federal government in school policy.⁶
- The same survey also showed that Hispanic trustees were more concerned about advocating on behalf of immigrant students.⁷

The CVRA also creates a leadership pipeline for underrepresented communities that previously did not have access to the ballot and an equal opportunity to be elected. In the 2010 survey referenced above, twenty-eight percent of Hispanic trustees, as opposed to just fourteen percent of white trustees said they planned to seek other offices.⁸

³ David Leal *et al*, *The Politics of Latino Education: The Biases of At-Large Elections*, 66 *The Journal of Politics*, (2004).

⁴ *Id.*

⁵ Kenneth J Meier & Eric Gonzalez Juenke, *Electoral structure and the quality of representation on school boards*, Prepared for the conference, “School Board Politics” Kennedy School of Government, Harvard University, (October 15-17, 2003); Kenneth J Meier & Laurence J O’Toole Jr., *Political Control Versus Bureaucratic Values: Reframing the Debate*, Prepared for presentation at the National Public Management Research Conference, the University of Southern California, (September 29-October 1, 2005); Max Neiman *et al.*, *Examining Latino Representation in California School Boards: Their Impact on Perceptions about District Problems, Priorities and Policies*, The Cesar Chavez Institute Policy Research Series, (October 2010).

⁶ Neiman *et al.*

⁷ *Id.*

⁸ *Id.*