LEAGUE OF CALIFORNIA CITIES

Changing Rules for District Elections:

The U.S. Supreme Court and SB 1164



2026 City Clerks New Law Conference

MEET THE PANEL



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THE CALIFORNIA VOTING RIGHTS ACT

Timeline

2002	Enacted
2006	CA Appeals Court affirms constitutionality
2017	AB350 creates "safe harbor" timeline and $30,000 payment system AB278 empowers cities to switch without going to the voters
2026	Federal *Callais* decision
2027	SB 1164 expands liability & puts an expiration on "safe harbor"

Transitions

Year	By-District Cities
Pre-CVRA	23
2006	29
2014	38
2016	59
2018	125
2020	168
2022	203
2024	223
2026	233
2028	236 (so far)



LEGAL CHALLENGES AND PUSHBACK

Early Cases







Ongoing Cases



City of Santa Monica



Background: Thornburg v. Gingles (U.S. 1986)

- **Traditional voting rights challenge at-large voting or districts rules:**
  - First, three "preconditions" must be met:
    1. Plaintiff must show ability to draw a single-member district in which the plaintiff minority group is a majority of eligible voters
    2. Must show the minority group is politically "cohesive."
    3. Must show the majority votes as a bloc to "usually" defeat the unique political preferences of the minority group.
  - If the three *Gingles* preconditions are met, then the court must assess the **"totality of circumstances"** to determine there is structural dilution, as distinguished from simply losing occasional elections.
- The main focus of the California Voting Rights Act of 2001 was eliminating the first *Gingles* precondition, but there were other ways in which it was applied over the years that made it easier for plaintiffs to prevail.
- No right to proportional representation, though if it exists that is evidence that no violation is occurring.



Louisiana v. Callais (2026): "Update" to *Gingles*

- **Long-standing recognition of tension between VRA/*Gingles* and Equal Protection.**
- Four modifications (or clarifications) to the *Gingles* framework to reconcile the two:
  - Because the target of the Equal Protection Clause and the Fifteenth Amendment is intentional discrimination, a **plaintiff must create a "strong inference" of intentional discrimination**.
  - The alternative voting system plaintiffs propose as "non-dilutive" alternative must accomplish the same goals as the challenged system.
  - Analysis for minority cohesion and majority bloc voting must control for partisan influence.
  - "Totality" analysis must focus on "present-day" intentional discrimination, not historical discrimination and not the "ongoing effects" of past societal discrimination.



SB 1164

- **Massive overhaul of California Voting Rights Act**
- **Shielding from *Callais*:** Removes all references to the Federal Voting Rights Act and *Gingles*
- **Expires by-district "safe harbor"** in 2031
- **Creates New Legal Liabilities:**
  - Citywide-elected Mayor if "dilutive"
  - Any election rules and procedures deemed "dilutive" or "suppressive"
  - No "statistical certainty" required of plaintiffs' analysis
- **New procedural and reporting requirements** for election changes
- Expands plaintiffs' **ability to cancel upcoming elections** and to demand **alternative voting systems** (cumulative voting, ranked choice voting, "proportional voting," etc.)



Examples of Potential Election System & Procedure Liabilities

- **By-district safe harbor ends in 2031**
  - Return of legal liability for all 236 by-district cities
- **Citywide-elected Mayor (221 California cities)**
  - If the citywide post dilutes the voting strength of a potential plaintiff
- **Primary Election (12 California cities)**
  - If the potential plaintiff's voting group has less influence in a primary than in a general
- **Residency Requirement**
  - If a plaintiff can claim that limits their voting group's voting influence
- **????**
  - The door is open to challenges to virtually any election system or procedure



Clerk Perspective

As clerks, we play an important role in helping our organizations navigate complex issues.

- Understand when election law changes may affect your agency.
- Keep leadership informed and connected to the right resources.
- Support transparent, inclusive, and well-documented public processes.
- Help ensure requirements, timelines, and implementation steps stay on track.



Our role is to help our organizations move from uncertainty to informed decision-making.

Action Steps

1. **Ensure City Attorney and Council are aware of new liabilities**
2. **Track County Registrar's ability to handle alternative election systems**
   - Currently all counties can handle "single vote" limited voting
   - Only San Francisco, Alameda and Riverside currently handle Instant-Runoff and Single Transferrable Vote versions of Ranked Choice Voting
3. **Be Prepared**
   - Possible proposals for change before 2031
   - 2031 Redistricting: new rules and regulations, especially for community engagement (work starts now)



Q&A

THANK YOU!



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