

Date of Hearing: April 30, 2025

ASSEMBLY COMMITTEE ON ELECTIONS
Gail Pellerin, Chair
AB 1079 (Ávila Farías) – As Amended April 23, 2025

SUBJECT: Civil appeals: stay of enforcement.

SUMMARY: Provides for a superior court order to be enforced during a pending appeal in cases involving state laws that restrict at-large elections or that are related to the adoption of local electoral district boundaries, except as specified. Specifically, **this bill**:

- 1) Provides that the perfecting of an appeal does not stay enforcement of the judgment or order in the trial court in the absence of a trial court order providing otherwise under either of the following circumstances:
 - a) The trial court found that a party's at-large method of election, as defined, violates, or is likely to violate, the California Voting Rights Act of 2001 (CVRA); or,
 - b) The trial court found that a party's election district boundaries violate, or are likely to violate, the Fair and Inclusive Redistricting for Municipalities and Political Subdivisions Act of 2023 (FMA).
- 2) Requires a trial court's order to be stayed during the pendency of an appeal, notwithstanding 1) above, if the Attorney General (AG) and Secretary of State (SOS) file a certification in the trial court declaring that staying enforcement of a judgment or order pending appeal is either of the following:
 - a) In furtherance of the purposes of the CVRA or FMA, as applicable; or,
 - b) Otherwise necessary for the orderly administration of the state's elections.
- 3) Provides that this bill does not apply to a judgment or order entered in the trial court before July 1, 2025.
- 4) Makes various findings and declarations, and makes a conforming change.

EXISTING LAW:

- 1) Provides that unless otherwise provided by law, the perfecting of an appeal stays proceedings in the trial court upon the judgment or order appealed from or upon the matters embraced therein or affected thereby, including enforcement of the judgment or order, but the trial court may proceed upon any other matter embraced in the action and not affected by the judgment or order. (Code of Civil Procedure §916(a))
- 2) Provides that when there is a stay of proceedings other than the enforcement of the judgment, the trial court retains jurisdiction of proceedings related to the enforcement of the judgment as well as any other matter embraced in the action and not affected by the judgment or order

appealed from. (Code of Civil Procedure §916(b))

- 3) Provides that the perfecting of an appeal does not stay enforcement of the judgment or order in the trial court under specified circumstances, including specified orders related to the control of hazardous substances and orders affecting the custody of a minor child. (Code of Civil Procedure §§917.1-917.9)
- 4) Permits a trial court to stay the enforcement of any judgment or order, as specified. (Code of Civil Procedure §918)
- 5) Provides that provisions of law relating to the stay of proceedings in a trial court upon the perfecting of an appeal do not limit the power of a reviewing court or of a judge thereof to stay proceedings during the pendency of an appeal or to issue a writ of supersedeas or to suspend or modify an injunction during the pendency of an appeal or to make any order appropriate to preserve the status quo, the effectiveness of the judgment subsequently to be entered, or otherwise in aid of its jurisdiction. (Code of Civil Procedure §923)
- 6) Prohibits, pursuant to the CVRA, an at-large method of election from being imposed or applied in a political subdivision in a manner that impairs the ability of a protected class of voters to elect the candidate of its choice or its ability to influence the outcome of an election, as a result of the dilution or the abridgement of the rights of voters who are members of a protected class. Requires a court, upon finding a violation of the CVRA, to implement appropriate remedies, including the imposition of district-based elections, which are tailored to remedy the violation. (Elections Code §§14025-14032)
- 7) Requires, pursuant to the FMA, that local jurisdictions use specified criteria and follow specified procedures when establishing districts for the local jurisdiction from which governing board members are elected. (Elections Code §§21100-21180)

FISCAL EFFECT: None. This bill is keyed non-fiscal by the Legislative Counsel.

COMMENTS:

- 1) **Purpose of the Bill:** According to the author:

This bill would have a positive impact on the ability of underserved and marginalized communities to access the justice system. It increases the practicality of accessing the justice system. If cities or districts are able to delay justice to marginalized and underserved communities by simply filing a Notice of Appeal, it is not practical to those marginalized and underserved communities to utilize the justice system, because, as Dr. Martin Luther King Jr. said in his Letter from a Birmingham jail: “justice delayed is justice denied.” Why would members of marginalized and underserved communities utilize the justice system when it is denying them justice?

- 2) **California Voting Rights Act Background:** SB 976 (Polanco), Chapter 129, Statutes of 2002, enacted the CVRA to address racial block voting in at-large elections for local office in California. In areas where racial block voting occurs, an at-large method of election can

dilute the voting rights of minority communities if the majority typically votes to support candidates that differ from the candidates who are preferred by minority communities. In such situations, breaking a jurisdiction up into districts can result in districts in which a minority community can elect the candidate of its choice or otherwise have the ability to influence the outcome of an election. Accordingly, the CVRA prohibits an at-large method of election from being imposed or applied in a political subdivision in a manner that impairs the ability of a protected class of voters to elect the candidate of its choice or to influence the outcome of an election, as a result of the dilution or the abridgement of the rights of voters who are members of the protected class.

Although committee staff is not aware of any comprehensive source of the number of local government bodies that transitioned from at-large to district-based elections since the enactment of the CVRA, more than 275 jurisdictions have done so during that time. While some jurisdictions did so in response to litigation or threats of litigation, other jurisdictions proactively changed election methods because they believed they could be susceptible to a legal challenge under the CVRA, and they wished to avoid the potential expense of litigation.

- 3) **Fair Maps Act Background:** AB 764 (Bryan), Chapter 343, Statutes of 2023, enacted the FMA, which built upon AB 849 (Bonta), Chapter 557, Statutes of 2019, also known as the Fair Maps Act of 2019. These bills revised and standardized the criteria and process to be used by local governments when adjusting the boundaries of the electoral districts that are used to elect members of the jurisdictions' governing bodies, and required local jurisdictions to comply with substantial public hearing and outreach requirements as part of the process for adjusting the boundaries of electoral districts. AB 764 was developed in part based on recommendations made in a report that evaluated the effects of AB 849 during the local redistricting process that followed the 2020 federal decennial census. That report concluded that AB 849 "was broadly successful in promoting a more transparent and more participatory local redistricting process," and that "[t]o a lesser extent, it was successful in producing maps that better reflect the diverse communities residing in cities and counties across the state." On the other hand, the report also concluded that improvements to AB 849 were needed "to address ambiguities, loopholes, and deficiencies in the legislation that undermined the law's important goals, and were often exploited to protect incumbents." In particular, the report concluded that notwithstanding the ranked, mandatory redistricting criteria that was included in AB 849, "in many jurisdictions incumbency protection proved to be the overriding criterion for how maps were drawn."
- 4) **Ongoing CVRA Litigation in the City of Santa Monica:** The City of Santa Monica currently has a seven member city council, with members elected at-large to staggered four-year terms. In April 2016, the Pico Neighborhood Association and a registered voter in Santa Monica sued the City of Santa Monica, alleging that its at-large method of electing the city council violated the CVRA and the equal protection clause of the California Constitution.

In 2019, after a six-week trial, the Los Angeles County Superior Court ruled in favor of the plaintiffs on both counts, and ordered the City to adopt district-based elections. In its decision, the court concluded that an analysis of election results from the preceding 24 years found "a consistent pattern of racially-polarized voting" such that while "Latino voters strongly prefer a Latino candidate running" for the city council, the preferred Latino

candidates have been unsuccessful despite that support. The court went on to note that “though Latino candidates are generally preferred by the Latino electorate in Santa Monica, only one Latino has been elected to the Santa Monica City Council in the 72 years of the current election system—1 of 71 to serve on the city council.” The Superior Court ordered all future elections for seats on the Santa Monica City Council to be district-based elections pursuant to a district map outlined by the court, ordered that a district-based special election for all seven seats on the city council be held in July 2019, and ordered that each existing city council member in Santa Monica was prohibited from continuing to serve on the city council after August 15, 2019 unless the member was elected to a seat at the district-based special election in July 2019.

The City Council appealed the decision. Although a trial court decision typically is stayed during an appeal except in specified circumstances, the parties to the lawsuit disagreed over whether the Superior Court’s order that prohibited sitting city council members from serving after August 15, 2019 was automatically stayed during the appeal. Accordingly, the City of Santa Monica petitioned the Appellate Court to stay that order during the appeal, and the court granted that petition. The Court of Appeals subsequently reversed the Superior Court’s decision, finding that Santa Monica’s at-large method of electing city council members did not violate the CVRA or the California Constitution. In reaching that decision, the appellate court concluded that changing from an at-large system to a district system would not enhance Latino voters’ ability to elect their candidates of choice or influence the outcome of an election in a “legally significant” way, and therefore reasoned that the plaintiffs had failed to demonstrate that the at-large system diluted the voting power of Latino voters within the meaning of the CVRA.

The plaintiffs appealed that ruling to the California Supreme Court, which granted review to determine what constitutes dilution of a protected class’s ability to elect the candidates of its choice or to influence the outcome of an election within the meaning of the CVRA. In August 2023, the California Supreme Court issued its ruling (modified the following month in a manner that is not relevant to the subject of this bill), finding that the Court of Appeal “misconstrued” the CVRA, and ruling that in order to establish dilution under the CVRA, a plaintiff “must demonstrate ‘the *potential* to elect representatives’ under some lawful alternative electoral method.” Notably, the opinion did not reinstate the Superior Court’s judgment, and expressly stated that the court was not expressing a view on whether Santa Monica’s at-large voting system was consistent with the CVRA. Instead, the Supreme Court remanded the case for further proceedings. The case is pending on remand in the Los Angeles Superior Court.

Since the Los Angeles Superior Court’s 2019 ruling, Santa Monica has held three more municipal elections to elect city council members. Because the Superior Court’s decision was stayed during the lengthy appeals process that has ensued in this case, all three of those municipal elections were conducted using the at-large election system that the Superior Court found to be in violation of the CVRA.

- 5) **Prompt Enforcement of Voting Rights Laws vs. Finality of Court Proceedings and Suggested Amendments:** According to the Assembly Judiciary Committee analysis of this bill, a general principle in most civil litigation is to preserve the status quo until the courts

can decipher the proper outcome. Accordingly, existing law generally requires the staying of a lower court decision pending appeal in order to preserve the status quo should a higher court reverse the trial court.

The author and sponsor of this bill argue that this general principle can frustrate the purpose of California's voting rights and redistricting laws in cases that are subject to lengthy appeals, because the staying of a lower court decision that found a violation of the CVRA or the FMA means that the election methods and systems that the court found to be discriminatory or otherwise unlawful will continue to be used for elections while appeals proceed.

Overriding this general principle—and allowing Superior Court judgments in CVRA and FMA cases to take effect despite a pending appeal—allows for election systems that are found to be discriminatory by a Superior Court to be replaced more rapidly, thereby furthering the purposes of the CVRA and FMA. On the other hand, such a policy shift also could result in increased uncertainty and volatility in local jurisdictions where appeals proceed after a new electoral system has been implemented, particularly where the Superior Court's decision subsequently is overturned on appeal. That uncertainty and volatility can have its own negative policy impacts, causing voter confusion and potential instability in local governance in situations where an electoral system changes multiple times over a short period of time.

In the Santa Monica case described above, for example, if this bill had been in effect at the time of the Superior Court's 2019 order, it is possible that Santa Monica would have been required to hold elections in July 2019 under a new by-district election system, and that election could have resulted in significant or possibly complete turnover of the members of the city council. When the Appellate Court subsequently reversed the Superior Court's decision in July 2020, it is unclear how or whether that decision would have allowed or required Santa Monica to revert back to an at-large election method and, if so, when the at-large election method would again be used to conduct local elections. While that Appellate Court decision was appealed to the Supreme Court, it is unclear which election method would be used for municipal elections while the appeals continued. That's especially true once the Supreme Court issued its decision that overturned the Appellate Court's ruling while also declining to reinstate the Superior Court's decision. Such a sequence of events likely would have resulted in a great deal of instability in Santa Monica's electoral system over the course of those appeals. (Of course, it is also possible that a new city council elected under a by-district election system in July 2019 could have chosen to abandon the appeal, thereby avoiding a situation where the Superior Court's order was overturned on appeal.)

In addition to the potential for added volatility and uncertainty in the jurisdiction that has been sued under the CVRA or the FMA, overriding the general principle of staying lower court decisions while appeals proceed could also have impacts on other jurisdictions that are not party to the litigation at all. In particular, county elections officials, who generally conduct elections on behalf of other local jurisdictions, could be forced to make repeated adjustments to precinct lines and to other elections processes and procedures if a local jurisdiction's electoral system changes multiple times during the course of CVRA or FMA litigation. To ensure that the provisions of this bill do not have the potential to impose

unrecoverable costs on county elections officials for the work they do in administering elections for other jurisdictions involved in CVRA or FMA litigation, committee staff recommends that this bill be amended to expressly provide that a jurisdiction shall reimburse the county for any actual costs incurred by the county elections official in administering elections for the local jurisdiction as a result of the enforcement of the trial court's judgment or order, and as the result of any orders issued by a court during an appeal of the action.

- 6) **Appellate Court Authority and Suggested Amendment:** Generally speaking, in circumstances where a lower court decision is *not* automatically stayed during a pending appeal, the court before which an appeal is pending nonetheless has the authority to stay the decision of the lower court during the pendency of an appeal, and to make any other order appropriate to preserve the status quo. Notwithstanding this general provision, this bill could create ambiguity about whether the Legislature intends to limit the ability of reviewing courts to stay a lower court's decision during an appeal in situations where a decision in a CVRA or FMA case would not automatically be stayed during the appeal. To avoid creating any such ambiguity, committee staff recommends that this bill be amended to add language that expressly provides that the bill does not limit the power of a reviewing court to issue stays or grant writs of supersedeas in accordance with Section 923 of the Code of Civil Procedure.
- 7) **Potential Retroactive Application and Suggested Amendment:** Recent amendments to this bill provide that its provisions do not apply to a judgment or order entered in the trial court before July 1, 2025. Because this bill does not contain an urgency clause, it would not go into effect until January 1, 2026 if signed into law this year. One implication of the recent amendments to this bill is that the bill *would* apply to trial court judgments that are issued between July 1, 2025 and December 31, 2025, even though this bill would not yet be in effect at that time. At the time those decisions are issued, state law would generally provide for the trial court's order to be stayed during appeal. If this bill became law and took effect on January 1, 2026, however, this bill could be interpreted to require such stays to be dissolved immediately and for the trial court's order to become effective immediately on January 1, 2026, even if appeals in that case are ongoing. At a minimum, this bill would be likely to create uncertainty in the courts about the enforceability of a trial court's decision related to the CVRA or FMA that is issued between July 1, 2025 and December 31, 2025 during the pendency of any appeals of that decision.

To avoid such uncertainty, and to prevent the potential that the status of a stay in a pending appeal would change overnight not due to any action of a court but due to the operation of a new law, committee staff recommends that this bill be amended to provide that its provisions do not apply to any stage of any proceeding commenced on or before January 1, 2026 under the CVRA or the FMA.

- 8) **Secretary of State and Attorney General's Role:** Although this bill generally would allow Superior Court judgments in CVRA and FMA cases to take effect while appeals proceed, it also contains important safeguards to protect against situations where the enforcement of the trial court order could itself undermine voting rights or interfere with election administration. Specifically, if the SOS and the AG file a certification with a Superior Court that staying enforcement of the court's judgment pending appeal would further the purposes of the CVRA or the FMA, or that staying the judgment is necessary for the orderly administration

of the state's elections, that certification would serve to stay the court's judgment during the appeal.

- 9) **Arguments in Support:** The sponsor of this bill, the Asian Law Alliance, wrote in support of a prior version of this bill:

[T]he California Voting Rights Act of 2001 prohibits at-large election systems from impairing the ability of protected classes to elect candidates of their choice. Similarly, the Fair Maps Act of 2023 mandates that districting bodies adopt fair election district boundaries that comply with constitutional and federal voting rights laws. However, current judicial procedures allow political subdivisions to delay compliance with court orders simply by filing an appeal, preventing necessary electoral reforms from taking effect...

AB 1079 directly addresses this issue by removing the automatic stay of enforcement in cases where a court determines that an at-large election system or district boundaries violate, or are likely to violate, the CVRA or FMA...

The problem that AB 1079 aims to address is illustrated by the City of Santa Monica's nine-year fight against the CVRA and the voting rights of its constituents. In February 2019, the Los Angeles Superior Court entered judgment, finding Santa Monica's at-large elections violate the CVRA. The Superior Court ordered Santa Monica to hold district-based elections. Yet, because it appealed that judgment, Santa Monica has since held three more racially-discriminatory at-large elections (2020, 2022 and 2024) in violation of the CVRA, while the case is still pending. Since that 2019 judgment, the voting rights afforded to Latino voters in Santa Monica by the CVRA continue to be denied, exemplifying the maxim: "justice delayed is justice denied."

- 10) **Arguments in Opposition:** In opposition to a prior version of this bill, the City of Santa Monica wrote:

The question raised in *Pico Neighborhood Association vs City of Santa Monica* is about whether Santa Monica's at-large voting system is illegally depriving Latino voters in the Pico Neighborhood of their voting rights. Plaintiffs sued in 2016 asserting two claims- one under the California Constitution's Equal Protection Clause and the other under the CVRA. In 2019, the trial court found for plaintiffs on both claims, however, the Court of Appeal reversed. It held that no evidence supported the conclusion that the City had intentionally discriminated against minority voters. In Santa Monica, the Court of Appeal concluded that Latino voters are too few in number and too dispersed across the City to be able to elect greater numbers of preferred candidates under the election system the plaintiffs prefer, which is a district-based system. The City has demonstrated that its election system is working well for Latino voters and that implementing district elections would leave those voters and other minority voters in the City worse off...

AB 1079 purports to “ensure that remedial measures ordered by a Superior Court to address violations of California Voting Rights Act of 2001 or the Fair MAPS Act of 2023 are implemented promptly regardless of any pending appeal”.

However, AB 1079 would force the City to implement the trial court’s order—that is to implement district elections, before a court of appeal determines whether there has been a violation of the CVRA, thus undermining the City’s ability to preserve status quo, pending an appeal. This situation would deprive the Pico Neighborhood residents of their currently preferred and elected representatives, even if the City were to succeed on appeal.

11) **Double-Referral:** This bill was heard in the Assembly Judiciary Committee on March 25, 2025, where it was approved by a 7-3 vote.

REGISTERED SUPPORT / OPPOSITION:

Support

Asian Law Alliance (Sponsor) (prior version)
California Human Development (prior version)
Center for Employment Training (prior version)
Central Valley Opportunity Center (prior version)
First Day Foundation (prior version)
La Cooperativa Campesina de California (prior version)
Los Amigos de la Comunidad, Inc. (prior version)
MAPAA
Pico Neighborhood Association
Proteus, Inc. (prior version)
Santa Monica Northeast Neighbors
Santa Monicans United
The Coastal Alliance
37 individuals

Opposition

City of Santa Monica (prior version)

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