

California Voters Choice Act and The California Voting Rights Act: What you Need to Know

2017 Mayors and Council Members
Executive Forum, Thursday June 29, 2017



Agenda

California Voters Choice Act – California Secretary of State Alex Padilla

- Vote Center Model: What to Expect
- How will this Increase Voter Turnout?
- Potential Challenges with Vote Center Rollout
- What can City Officials do to Ensure Success?

California Voting Rights Act Reforms- Dane Hutchings, Randi Johl, Kimberly Hall-Barlow and Jonathan Stein

- *The Problem for Cities , Dane Hutchings*
- *The Legislative Package, Dane Hutchings*
- *Benefits and Drawback of Recent Reforms, Kimberly Hall Barlow*
- *“The Process” How to Maximize the time Allocated Under Current law, Randi Johl*
- *What We’ve seen thus far?, Kimberly Hall Barlow*
- *Best Practices to Engaging Communities, Jonathan Stein*

California Voters Choice Act



California Secretary of State Alex Padilla

- Vote Center Model: What to Expect
- How will this Increase Voter Turnout?
- Potential Challenges with Vote Center Rollout
- What can City Officials do to Ensure Success?
- Final Thoughts

Questions?



CVRA Presenters



Dane Hutchings, MPP,
Legislative
Representative, League
of California Cities



Kimberly Hall Barlow,
Partner, Law Office of
Jones & Mayer



Randi Johl-Olson, JD,
MMC, Legislative Director,
California City Clerks
Association



Jonathan Stein, Board
Chair, California
Common Cause

California Voting Rights Act: Top Line

- CVRA prohibits the use of an at-large election system if racially polarized voting and the at-large election system combine to either impair the ability of protected class voters to elect candidates of their choice or impair their ability to influence the outcome of an election.
- At-Large election system is where voters of the entire city elect all members to the city council.
- From District election system is where each council member is elected by voters from the entire city, but the city is divided into districts and each council member must reside within a particular district.
- By District election system is where a city is divided into districts and one council member is elected by only the registered voters in that particular district.

CVRA: The Problem for Cities

- Number of Challenges (Serial Litigation) / Low Threshold
- Limited Options Based on Population Size
- Costly Elections
- Costly Litigation / Settlements

California Voting Rights Act: Legislative Reforms

The Politics

- Legislative Latino Caucus “Priority”.
- Prior versions of AB 350 (Alejo) AB 278 (Hernandez) close to the finish line.
- Multiple Players: Legislative Minority Caucuses, Civil rights/ open government groups, the Governors Office Etc.
- The League was the “outsider” and needed to control our own destiny.



California Voting Rights Act: Legislative Reforms

The Measures:

AB 2220 (Cooper)

- Any general law city and any charter city whose charter is silent on the election system, regardless of population, may voluntarily switch from an at-large election system to district election system via the ordinance process without voter approval

AB 278 (Hernandez)

- Allows for a district system to be implemented (via ballot measure) before maps are drawn and adopted.
- Viable option for Charter Cities who's charter mandates at-large voting.



California Voting Rights Act: Legislative Reforms

The Measures:

AB 350 (Alejo)

- Limited safe-harbor provisions for cities voluntarily switching from at-large to district election system (45 Days + 90 Days)
- Public hearings / publications both before and after drawing preliminary map(s) of district boundaries
- Establishes \$30,000 cap and procedures for reimbursement to the first prospective plaintiff whose notice prompted change



California Voting Rights Act: Legislative Reforms

Benefits/ Drawbacks :

Benefits:

- Creates safe harbor much better/longer than under catalyst theory cases.
- Allows for election to go to districts without ballot measure.
- Allows system to be implemented before maps are drawn and decided.
- *“AB 350 is helpful because it provides a defined process for making the switch, and limits the amount of costs and fees we would otherwise likely be assessed. In addition, for proponents of district elections, it provides an incentive for cities to make the switch more quickly than they otherwise might.”*

California Voting Rights Act: Legislative Reforms

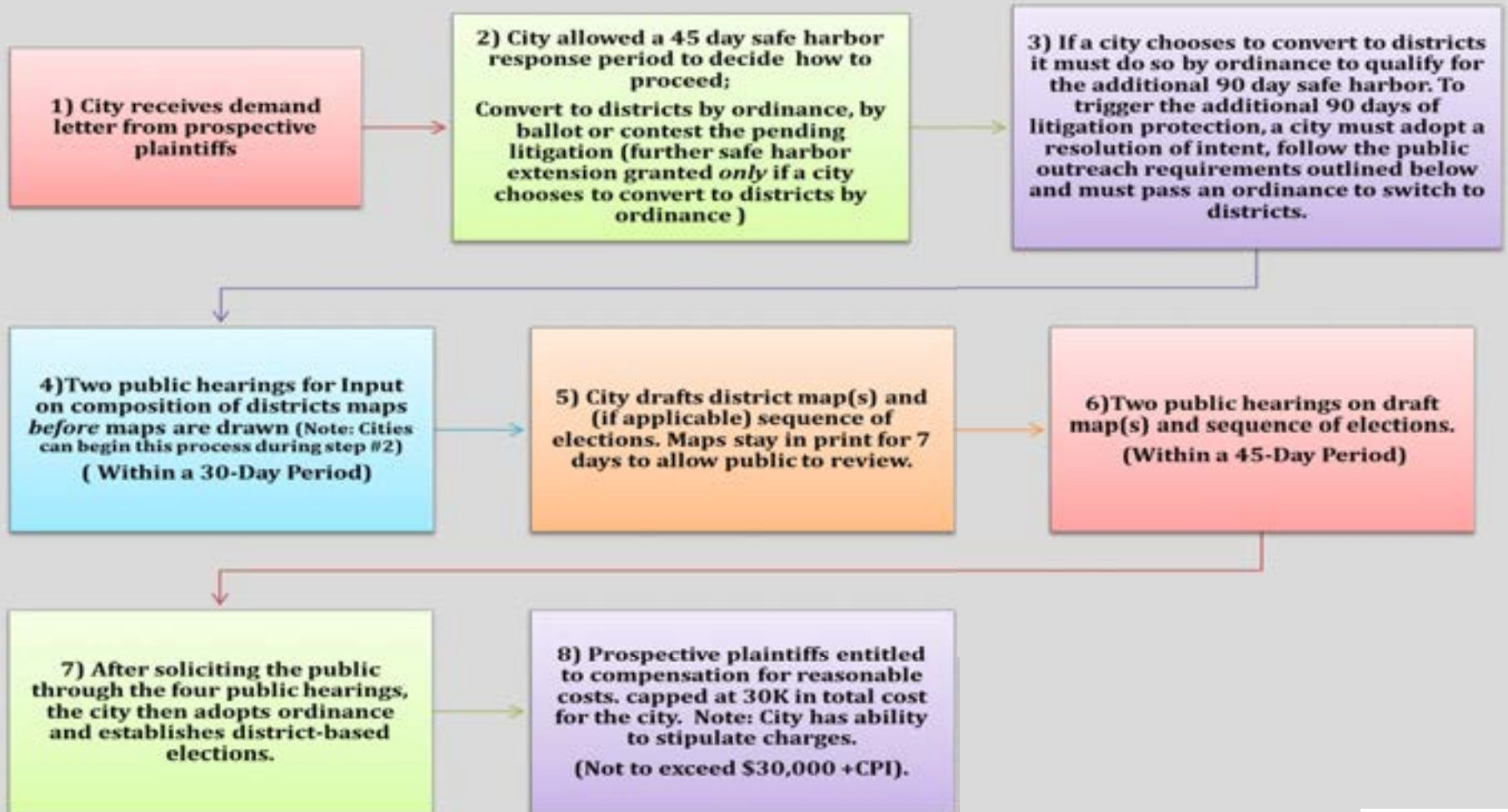
Benefits/ Drawbacks :

Drawbacks:

- Still provides short period of time to complete process.
- No time to evaluate whether racially polarized voting actually exists.
- Requires two public hearings on selected map *before* selection.
- Does not address Charter Cities with at-large elections in charter.

California Voting Rights Act: Legislative Reforms

The “Process” How to Maximize the Time Allocated Under the Reforms



TIMELINE / CHECKLIST

Letter Received by City Clerk's Office: TBD

45-Day Deadline [AB 350(e)(3)(A)]: TBD

90-Day Deadline [AB 350(e)(3)(B)]: TBD

No.	Task	Date / Timeline	Notes
1	Closed Session		
2	Council Meeting – Initial Consideration of Topic / Seek Council Direction on How to Proceed		
3	Council Meeting to Adopt Resolution / Public Hearing #1		Before Map(s) Drawn – E.C. 10010(a)(1)
4	Council Meeting / Public Hearing #2		Before Map(s) Drawn – E.C. 10010(a)(1), within 30 days of Public Hearing #1
5	Draft Map(s) Drawn		
6	Publish Draft Map(s) / Sequencing		E.C. 10010(a)(2), Published Once at Least 7 Days Prior to Public Hearing #3
7	Council Meeting / Public Hearing #3		Map(s)/Sequencing Published E.C. 10010(a)(2), More than 7 Days After Draft Map(s)/Sequencing Publication
8	Council Meeting / Public Hearing #4 – Introduction / First Reading of Ordinance		After Map(s)/Sequencing Published E.C. 10010(a)(2), within 45 days of Public Hearing #3
9	Council Meeting – Second Reading of Ordinance		Publish Entire Adopted Ordinance
10	Ordinance Effective Immediately (30 Days After If Charter Requires)		Government Code 36937 (Election Ordinance Effective Immediately) Unless Charter Requires Otherwise
11	Council Members Transition to Representing Their Respective Districts via Ordinance	November 2018 November 2020	

California Voting Rights Act: Legislative Reforms

What We've Seen Thus Far

Cities who have received demand letters since effective date of AB 350

- Carlsbad
- Fremont
- Huntington Beach
- Mountain View
- Morgan Hill
- Murrieta
- Oceanside
- Vista

California Voting Rights Act: Legislative Reforms

What We've Seen Thus Far

- **Fremont** received a CVRA demand on February 15, 2017 from attorney Kevin Shenkman. The City has strictly adhered to the safe harbor provisions of AB 350 so as to reduce possible liability.
- **Morgan Hill** received a demand from Morris Baller with the law firm of Goldstein, Borgen, Dardian & Ho on May 5. Morgan Hill is taking advantage of the safe harbor provisions despite some glaring errors in the demographic information asserted in the letter.

California Voting Rights Act: Legislative Reforms

What We've Seen Thus Far

- **Vista** received its demand from Mr. Shenkman on 2/13/17. It commenced the process to move to districts on 3/28/17 and concluded on 6/13/17, with the unanimous adoption of a districting ordinance. Vista successfully worked within the limits of AB 350. It held six public hearings, three formal workshops, one informal workshop, and considered 18 valid maps with an additional 13 invalid maps submitted.
- The City of **Carlsbad** received a demand letter from Mr. Shenkman on April 5, 2017. The City is currently using the safe harbor provisions of AB 350.
- **Huntington Beach** has vowed to fight in response to their demand letter from Mr. Shenkman.

California Voting Rights Act: Legislative Reforms

Impact of *Cooper V. Harris*

Key holding:

Drawing district lines on basis of race:

- 1) Plaintiff must prove that “race was the predominant factor motivating the legislature’s decision to place a significant number of voters within or without a particular district.”
- 1) If racial considerations did predominate, the State must prove that its race-based sorting of voters serves a “compelling interest” and is “narrowly tailored” to that end.

California Voting Rights Act: Legislative Reforms

Impact of *Cooper V. Harris* (Cont.)

- Does the fact that CVRA is “remedial” in nature justify use of race to determine whether polarized voting exists?
- Can it be argued that CVRA violates U.S. Constitution even though factors to be used in creating district do not reference race or ethnicity?
- Does *Cooper* forbid creation of “majority minority” districts, either intentionally or without taking race/ethnicity into account?

California Voting Rights Act: Best Practices for Community Engagement

- Residents are not familiar with “districting.”
- Create outreach/education materials and distribute them widely.
 - Local newspapers
 - Festivals/fairs/events
 - Robo-calls
 - Digital marquees at local schools
 - Flyers sent home with school children



California Voting Right Act: Best Practices for Community Engagement

Partner with community organizations

- Leverage their networks to do community education and outreach
- Train-the-Trainer model works well.
- Make sure to bring in communities that do not vote at high rates and historically do not engage with your city council.



California Voting Rights Act: Best Practices for Community Engagement

Significant Number of Hearings

- Before draft maps and
- After draft maps / before final approval

If possible, create standalone hearings separate from city council meetings.

- If not possible, identify for the public during city council meeting when districting will be discussed.



California Voting Rights Act: Best Practices for Community Engagement

Make hearings broadly accessible

- Diverse days of week and times of day
- Diverse locations/parts of town
 - Videotaping capabilities?

Locations accessible by public transit and to people with disabilities



California Voting Rights Act: Best Practices for Community Engagement

Create new section of city homepage.

- Explanation of districting and why it matters
- Resources for learning more
- Schedule of hearings for future hearings
- Video recordings of past hearings
- Demographic data and other map building blocks
- Mapping software
- Draft maps when ready



California Voting Rights Act: Best Practices for Community Engagement

Give the public opportunities to provide input even if they cannot attend a meeting

- Hotline (live or voicemail)
- Email submission
- Mechanism for submitting comments and/or maps on city website



California Voting Rights Act: Best Practices for Community Engagement

Language Access is Essential

- Translate relevant portion of website
- Translate outreach materials
 - Ad placement in English and ethnic media
- At hearings: simultaneous translation
 - Rent equipment and use community members as translators, if necessary.



California Voting Rights Act: Best Practices for Community Engagement

Write a Comprehensive Final Report Which:

- Will be useful to the public
- Will be useful to the city when it redistricts for the first time



California Voting Rights Act: Best Practices for Community Engagement

KEY TAKEAWAY

- Robust community education & engagement is the only way to do right by your residents.
- Safe harbor provision provides real value to cities but complicates community engagement. Already seeing examples of this.
- Essential that cities act quickly on community education and dedicate sufficient resources.



Questions?

