



Citizens Redistricting Commission
901 P Street, Suite 154-A
Sacramento, CA 95814

June 28, 2011

Dear Commission:

I am submitting this written comment requesting that the California Citizens Redistricting Commission [hereinafter cited as Commission] modify its first draft for the State Senate Districts located within certain counties subject to the Section 5 preclearance requirement of the federal Voting Rights Act, 42 U.S.C. § 1973c (Monterey, Kings and Merced) and adjoining counties.¹ At issue are the areas included within current Senate District 12, 15 and 16. The proposed Senate Districts may not meet the Section 5 and Section 2, 42 U.S.C. § 1973, standards of the federal Voting Rights Act.

Under Section 5, a covered jurisdiction has the statutory duty to submit all changes affecting voting, including redistricting plans,² and secure approval from the federal government. There are two procedures available to secure this approval. The submitting jurisdiction has the choice of pursuing one or the other and can also pursue both simultaneously. Under the first procedure, the covered jurisdiction can submit the proposed voting change to the United States Attorney General for approval or administrative preclearance. Under the second procedure, the covered jurisdiction can file an action in the United States District Court for the District of Columbia seeking judicial preclearance. Under either procedure, the submitting jurisdiction has the statutory duty to demonstrate that the proposed change affecting voting does not have a discriminatory effect on minority voting strength and was not adopted pursuant to a discriminatory intent. With respect to the discriminatory effect prong of Section 5, the covered jurisdiction must prove that the proposed voting change does not result in a retrogression, or a worsening, of minority voting strength. In addition, with respect to the discriminatory intent prong of Section 5, the covered jurisdiction must prove that there was no discriminatory intent in the enactment of the proposed change. As a result of the 2006 amendments to the federal Voting Rights Act, both the Attorney General and the United States District Court for the District of

¹ Any reference to Seattle University School of Law is for purposes of identification only. This written comment and accompanying materials contain Mr. Joaquin G. Avila's personal statements, viewpoints and arguments. Any reference to Seattle University School of Law should not be construed to suggest or imply that these statements, viewpoints and arguments are supported or endorsed by Seattle University and/or Seattle University School of Law. Seattle University and/or Seattle University School of Law have not authorized the inclusion of these statements, viewpoints and arguments in this written comment and accompanying materials, nor do they represent the statements, viewpoints and arguments of Seattle University and/or Seattle University School of Law.

² 28 C.F.R. § 51.13(e) (redistricting plans subject to Section 5 approval).

NATIONAL VOTING RIGHTS ADVOCACY INITIATIVE

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Columbia will be guided by the evidentiary requirements of *Village of Arlington Heights v. Metropolitan Housing Development*, 429 U.S. 252 (1977) in assessing whether the proposed voting change was enacted pursuant to a discriminatory intent.

Under Section 2, a standard, practice, or procedure cannot be implemented if it results in a discriminatory effect on minority voting strength. Apart from a discriminatory effect prong Section 2 also incorporates a discriminatory intent prong. The Senate Report accompanying the 1982 amendments to Section 2 of the federal Voting Rights Act specifically states that “[a] Plaintiff may establish discriminatory intent for purposes of this Section, through direct or indirect circumstantial evidence, including the normal inferences to be drawn from the foreseeability of Defendant’s actions which is ‘one type of quite relevant evidence of racially discriminatory purpose.’ *Dayton Board of Education v. Brinkman*, 443 U.S. 526, n. 9 (1979).” Sen. Report No. 97-417, at page 23 , note 108.

Although the proposed Senate Districts that encompass the areas currently included within current Senate Districts 12, 15 and 16 do not appear to result in a violation of the Section 5 retrogression standard,³ there is nevertheless a potential violation of the discriminatory purpose prong of both Section 2 and Section 5 of the federal Voting Rights Act, 42 U.S.C. § 1973 for reducing the opportunity of the Latino community to have a meaningful opportunity to elect a candidate of their choice in potential cross-over Senate District 15.

Under the proposed Coast Senate District in the first draft Senate Districts, the Latino CVAP is only 16%. Yet under a proposal that was submitted by the Silicon Valley Latino Democratic Forum, it is possible to create a 38.6% Latino CVAP district. Such a difference of 22% is significant and when measured under the intent evidentiary standard of either Section 5 or Section 2. This significant difference a major voting rights problem and should be corrected.

There are two major factors that should guide the Commission’s assessment of whether to follow the redistricting plan for proposed Senate Districts 12, 15, 16. The first concerns the

³ According to Redistricting Partners, comparing the Latino Citizen Voting Age Population figures for both the current Senate Districts and their functional equivalent proposed Senate Districts there is no numerical retrogression of the Section 5 standard. Under Section 5, a proposed redistricting plan cannot result in retrogression of minority voting strength. See 28 C.F.R. §51.54 (b) (as amended April 15, 2011, Federal Register, Vol. 76, No. 73, Rules and Regulations at 21248-21249). As noted in the table below, the Latino Citizen Voting Age Population (LCVAP) comparisons are nearly identical for Senate Districts 12, 15 and 16 and their functional equivalent proposed Senate Districts:

| Section 5 Retrogression Comparisons | | | | |
|--|-------|--|-------------|-------|
| | LCVAP | | | LCVAP |
| Current S.D. 16 | 50.9% | | Kings S.D. | 51.0% |
| Current S.D. 12 | 37.6% | | Merced S.D. | 40.0% |
| Current S.D. 15 | 16.0% | | Coast S.D. | 16.0% |

issue of electability. In current Assembly Districts 23 and 28, the Latino CVAP percentages are comparable to the Latino CVAP in the proposed Senate District 15. The Latino CVAP in Assembly District 23 using the 2009 American Community Survey is estimated to be 34.6% while the Latino CVAP in Assembly District 28 is estimated to be 44.3%. Both of these Assembly Districts are currently represented by Latino elected officials (Assembly District 23 – Campos; Assembly District 28 – Alejo). Accordingly a Latino CVAP for proposed Senate District 15 of 38.6 % is well within the range that the Latino community in this area would have an equal opportunity to participate in the political process and elect a candidate of its choice.

The second reason for reassessing the Latino CVAP concentration of the Commission’s Coast Senate District is the fact that there is a history of discrimination affecting the right to vote in California and in particular in Monterey County. What follows is an excerpt describing the history of voting discrimination. This excerpt was presented to the United States Department of Justice urging the Attorney General to institute a Section 2 lawsuit against the Los Angeles County Board of Supervisors for adopting a discriminatory supervisor redistricting plan in 2001. Due to time constraints there was no opportunity to edit the excerpt for incorporation into the present letter.

I. History of Discrimination That Touches Upon the Right to Vote.

California and Los Angeles County have experienced voting discrimination. Discussion on this factor will be divided into two sections. The first section will focus on voting discrimination on a statewide basis.⁴ The second section will focus on Los Angeles County.

a. Statewide Voting Discrimination.

After the Mexican American War, Latinas/os in the Southwest were first incorporated within the governmental structure of the United States, where they were “quickly conquered [and] subjected to an alien political system in an alien culture.”⁵ In California, the Gold Rush caused the Anglo population to increase at the expense of the Latina/o population reducing their political influence in California politics. Prior to the Mexican American War, the Latina/o and indigenous populations constituted nearly all of the population in California. With the gold rush, the percentage of Latinas/os during the time of period of 1850-1870 dropped from 15% to 4%. With this drop in population percentage, Latinas/os statewide political influence also dropped. For example in 1849, out of the 48 delegates who were charged with the responsibility of

⁴ *Gomez v. City of Watsonville*, 863 F. 2d 1407, 1418 (9th Cir. 1988) (appropriate to introduce evidence relating to statewide historical discrimination that touched upon the right to vote), *reversing*, Civ. Act. No. WAI C-85-20319 (N.D.Cal. 1985), *cert. den.*, 489 U.S. 1080 (1989).

⁵ David Weber, ed., *Foreigners in Their Native Land* at 140 (University of New Mexico Press) (1973).

drafting the constitution, 8 were Latina/o. Yet, from 1850 to 1870, only four Latinas/os served in the state legislature.⁶

The political transition that was occurring throughout the state during this time period can best be exemplified by examining the City of Santa Barbara, a local community in Santa Barbara County located north of Los Angeles. Latinas/os initially were elected to the governing city council. As a majority of the electorate, this community was successful in securing representation on the city council. However, as the decades progressed elections became racially polarized when Anglos sought office. There were clear differences between the Anglo and Latina/o community as they sought to control the local political power structure. As noted by a local prominent resident:

“The Americans have very little influence in the elections, but in a few years they will have all the power and they won’t consult the Californians about anything . . . The Californians have a majority of the votes. When they are united [which was usually the case when an Anglo and Mexican candidate view for the same position] they can elect whomever they wish.”⁷

However, this Latina/o dominance of political affairs in California was short-lived. In Santa Barbara, the substantial increase of the Anglo population resulted in a decrease in Latina/o political influence.

A major turning point in Santa Barbara was the 1874 city elections that resulted in the first white mayor and signaled the political demise of the Latina/o voting bloc.⁸ The white political forces sought the reincorporation of the city. In an unusual twist, as part of the reincorporation effort, the method of election for the city council was changed from an at-large method of election to a districting system. Under the at-large method of election, the Latina/o community exercised greater control by selecting a greater number of city officials. However, under the new districting plan, the Latina/o community which previously had an impact on the selection of the entire city council was confined to the selection of one city council member:

⁶ *Id.*, at 148-149.

⁷ Albert Camarillo, *Chicanos in a Changing Society, From Mexican Pueblos to American Barrios in Santa Barbara and Southern California, 1848-1930* at 23 (internal quotation marks omitted) (Harvard University Press, Cambridge) (1979):

“By 1855 Anglos began to contest the political power arrangements of Mexican Santa Barbara. Through the columns of the *Gazette* the editors and other Anglos directed attacks against bad city politics and the Mexican practice of bloc voting. . . . The 1866 city, county, and state elections are examples of Mexican election control. . . . Although Anglos were able to elect representatives to the Common Council in 1857, they remained a subordinate political force in the city and county throughout the 1850’s and early 1860/s.” (internal quotation marks and footnotes omitted)

⁸ *Id.*, at 71-72.

“The new wardship system brought to an end the influence Chicanos once wielded in local general elections; now they were able to elect only one city councilman, whose voting power was negated by a four-to-one margin.”⁹ The political representation changes in Santa Barbara were a reflection of the transition occurring statewide.

This transition was facilitated by two events that contributed to the political disenfranchisement of Latinas/os in California during the latter part of the 1800s. The first event occurred with the adoption of the California Constitution of 1879 that rescinded the requirement of publishing official documents in both English and Spanish. Initially the Constitution of 1849 mandated such a requirement. However, the State Legislature and local governments soon ignored this requirement.¹⁰ Thus important governmental documents were no longer published in Spanish. The presence of an English only governmental process undoubtedly contributed toward the political alienation experienced by the Latina/o community.

This alienation was further exacerbated by the adoption in 1894 of an English literacy requirement as a prerequisite to vote. The literacy requirement was aimed primarily at the Asian population.¹¹ According to historical accounts, the English literacy test was not systematically used until the 1950s and 1960s when the device was directed against the Latina/o population.¹² Whether it was directed only against Latinas/os until the mid-twentieth century or not, there was sufficient exclusion of the Spanish speaking population from the political process that litigation was initiated in the 1960s against the enforcement of this constitutionally mandated literacy test in *Castro v. State of California*.¹³ In *Castro* the California State Supreme Court did not invalidate this English literacy requirement. Instead the Court required that the literacy requirement could be applied in the Spanish language. The *Castro* decision did not have an immediate impact. In the same year that the decision was issued, 1970, Congress extended the 1965 Voting Rights Act for a five year period. The 1970 reauthorization suspended the use of

⁹ *Id.*, at 71. As part of the continuing campaign to limit Latina/o political participation in Santa Barbara, Chicanos were excluded from participation in the county’s Democratic Party convention in the early 1880s. *Id.*, at 75.

¹⁰ Bruce C. Bolinger, California Election Law During the Sixties and Seventies: Liberalization and Centralization, West’s Annotated California Election Code, at 68.

¹¹ *Id.*, at 59.

¹² Roger Daniels, Eric F. Petersen, “California’s Grandfather Clause: The ‘Literacy in English’ Amendment of 1894, Southern California Quarterly, Vol. L, No. 1, at 51, 55 (March 1968):

“There is every reason to suspect that the provision remained largely a dead letter: certainly it was not enforced among the Italians of San Francisco in the first decades of this century nor against Yiddish speaking Los Angeles Jews in the years after 1920, nor even against the newly naturalized Issei after 1952. The sole enforcement, and that largely sporadic, seems to have been against a group more native than the nativists themselves: the Spanish speaking Mexican-Americans whose recent increased political activity has resulted in the first significant use of the Gilded Age voting restriction.”

¹³ 2 C.3d 223, 85 Cal.Rptr. 20, 466 P.2d 244 (Cal. Supreme Ct. 1970).

all such tests or devices across the country for a five year period.¹⁴ The ban on literacy tests became permanent during the 1975 Amendments to the Voting Rights Act.¹⁵

From the adoption of the literacy test in 1894 to the 1950s, there are no published court cases involving voting discrimination against Latina/o voters.¹⁶ The absence of such cases can be attributable to two major factors. First, in California there was no civil rights litigation organization that had the resources and expertise to initiate cases involving Latina/o voter exclusion, either due to outright physical intimidation, acts based upon discrimination related to racial or ethnic identities, or based upon language discrimination. In fact *Castro* was the first case of Latina/o exclusion from the political process. Second, one of the major obstacles confronting Latina/o communities as they became numerically minority communities was racially polarized voting. The only legally effective check against racially polarized voting consists of filing actions based upon minority vote dilution.¹⁷ However, there was no precedent during this time period that recognized such claims. Finally, the absence of published cases does not automatically equate to the absence of such cases. There may have been voting discrimination cases filed during this time period that were not published, or were settled through an unpublished consent decree, or dismissed as a result of an ameliorative change in the method of election. In any event, no cases were filed until the *Castro* decision in California seeking to address issues of voting discrimination directed against Latinas/os.¹⁸

The judicial acceptance of minority vote dilution claims was established by the Supreme Court in 1973 in *White v. Regester*.¹⁹ The Supreme Court held for the first time that at-large or multimember districts violated the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution. *White* invalidated at-large or multimember legislative districts in Bexar County, Texas, on the grounds that these districts diluted the voting strength of Mexican Americans in the San Antonio greater metropolitan area.²⁰ After the *White* decision, at-large election challenges at the local governmental level were instituted across the Southwest. In

¹⁴ Public Law 91-284 (Sec. 6), 84 Stat. 314 (1970).

¹⁵ Public Law 94-73 (Sec. 102), 89 Stat. 400 (1975).

¹⁶ The only reported decision during this time period involved an interpretation of the State Constitution and the Treaty of Guadalupe Hildalgo regarding the conferring of citizenship status on former Mexican citizens. See *People ex rel. Kimberly v. De La Guerra*, 40 Cal. 311 (Cal. Supreme Court 1870).

¹⁷ In California, local initiatives can be pursued to secure changes to the method of election. For example, an at-large method of election permits racially polarized voting to have a disproportionate effect on the selection of elected officials. A districting form of elections can minimize such effects and result in the election of candidates preferred by the minority community. However such an option is not available where elections are characterized by polarized voting and the minority is a numerical minority.

¹⁸ Perhaps the earliest published case filed in California dealing with issues of discrimination affecting the Latina/o community was *Lopez v. Seccombe*, 71 F.Supp. 769 (S.D.Cal. 1944) (desegregation of swimming pool in the City of San Bernardino). The next case was *Mendez v. Westminster School Dist. Of Orange County*, 64 F.Supp. 544 (C.D.Cal 1946), *affirmed*, 161 Fed.2d 774 (9th Cir. 1947) (school desegregation case).

¹⁹ 412 U.S. 755 (1973).

²⁰ *White* also invalidated such districts in the Dallas area because of minority vote dilution directed against African Americans.

California, the first at-large election challenge based upon the Fourteenth Amendment was filed against the City of San Fernando.²¹ The action was unsuccessful and resulted in establishing difficult evidentiary standards for minority communities seeking to demonstrate that at-large methods of election were unconstitutional. As a result of the *Aranda* decision, there were no at-large election challenges filed in California during the 1970s.

The constitutional standard became more difficult when the Supreme Court in *City of Mobile v. Bolden* ruled that litigants had to demonstrate a discriminatory intent in either the enactment of an at-large election system or its maintenance in order to prove that a given at-large election system was unconstitutional.²² As a result of the *City of Mobile* decision, many at-large election challenges across the country were dismissed.²³ The impact of this decision prompted Congress to amend Section 2 of the Voting Rights Act of 1965, 42 U.S.C. § 1973, and eliminate the necessity of proving a discriminatory intent pursuant to a constitutional standard. Congress amended Section 2 to incorporate a discriminatory effects standard as the basis for successfully challenging at-large methods of election that diluted minority voting strength.²⁴

After Section 2 was amended, Latinas/os filed the first case in California against the City of Watsonville.²⁵ In *Gomez v. City of Watsonville*, the local Latino community had been unsuccessful in securing the election of their Latino preferred candidates to the city council. This lack of success was due to the city's use of an at-large method of election within the context of racially polarized voting patterns that diluted the voting strength of the Latino community. The case was ultimately successful on appeal to the United States Court of Appeals for the Ninth Circuit. In California, the *Gomez* decision served to renew efforts at the community level to eliminate discriminatory at-large methods of elections.²⁶ After the success of the City of Watsonville case, at large election challenges were filed in other parts of California.²⁷ However,

²¹ *Aranda v. Van Sickle*, 600 F.2d 1267 (9th Cir. 1979), *cert. den.*, 446 U.S. 951 (1980).

²² 446 U.S. 55 (1980).

²³ See *supra* note 16, S.Rept. 97-417, at 26 (“The impact of *Bolden* upon voting dilution litigation became apparent almost immediately after the Court’s decision was handed down on April 22, 1980. As the Subcommittee heard throughout its hearings, after *Bolden* litigators virtually stopped filing new vote dilution cases. Moreover, the decision had a direct impact on voting dilution cases that were making their way through the federal judicial system.”).

²⁴ P.L. 97-205, 96 Stat. 131 (1982).

²⁵ See *supra* note 103.

²⁶ While the City of Watsonville case was pending on appeal, a challenge was filed to the conversion from district based elections to a modified at-large election system for the City of Stockton. The case was ultimately unsuccessful. *Badillo v. City of Stockton*, Civ. Act. No. CV-87-1726-EJG (E.D.Cal. 1987), *affirmed*, 956 F.2d 884 (9th Cir. 1992).

²⁷ This litigation encompassed the following areas: City of Salinas, *Armenta v. City of Salinas*, Civ. Act. No. C-88-20567 WAI (N.D.Cal. 1988) (successful); Coalinga-Huron Unified School District, *Valenzuela v. Coalinga-Huron Unified School District*, Civ. Act. No. CV-F-89 428 REC (E.D.Cal. 1988) (successful); City of San Diego, *Perez v. City of San Diego*, Civ. Act. No. 88-0103 RM (S.D.Cal. 1988) (successful); City of Chula Vista, *Skorepa v. City of Chula Vista*, 723 F.Supp. 1384 (S.D.Cal. 1989) (unsuccessful); City of National City, *Valladolid v. City of National City*, 976 F.2d 1293 (9th Cir. 1992) (unsuccessful); Alta Hospital District, *Reyes v. Alta Hospital District*, Civ. Act. No. CV-F-90-620-EDP (E.D.Cal. 1990) (successful); City of Oxnard, *Soria v. City of Oxnard*, Civ. Act. No. 90-

this period of Section 2 enforcement in California was short-lived. Two major unsuccessful at-large election challenges served to discourage any further litigation by private parties.²⁸ These two cases involved challenges to the at-large method of election in the El Centro School District and the City of Santa Maria.²⁹ These cases consumed substantial resources and in the case of the Santa Maria litigation a final decision was not rendered until ten years after the case had been filed.

As a result of the El Centro and Santa Maria litigation experiences, no private litigants have filed any more at-large election challenges since **1992** under the federal Voting Rights Act of 1965.³⁰ The absence of private litigants is significant since as during the time period from 1977 to 2004, out of the total voting cases filed in the United States District Courts (5,538), the private bar has filed 5,040 or 91%.³¹ This figure demonstrates that the private bar has been largely responsible for enforcement of minority voting rights.³²

5239 R (C.D.Cal. 1990) (voluntarily dismissed, no result); City of Dinuba, *Reyes v. City of Dinuba*, Civ. Act. No. CV-F-91-168-REC (E.D.Cal. 1991) (successful); Cutler-Orosi Unified School District, *Espino v. Cutler-Orosi Unified School District*, Civ. Act. No. CV-F-91-169-REC (E.D.Cal. 1991) (successful); Dinuba Elementary School District, *Reyes v. Dinuba Elementary School District*, Act. No. CV-F-91-170-REC (E.D.Cal. 1991) (successful); Dinuba Joint Union High School District, *Elizondo v. Dinuba Joint Union High School District*, Civ. Act. No. CV-F-91-171-REC (E.D.Cal. 1991) (successful); Salinas Valley Memorial Hospital District, *Mendoza v. Salinas Valley Memorial Hospital District*, Civ. Act. No. C-92-20462 RMW (PVT) (N.D.Cal. 1992) (voluntarily dismissed, no result); Monterey County Superior Court, *Trujillo v. State of California*, Civ. Act. No. C-92-20465 RMW (EAI) (N.D.Cal. 1992) (voluntarily dismissed, no result).

²⁸ The only other at-large election challenge filed in California was initiated by the United States Department of Justice. Since 1990, the United States Department of Justice has filed one case challenging an at-large method of election. *U.S. v. City of Santa Paula*, (cited in Voting Section website, <http://www.usdoj.gov/crt/voting/litigation/caselist.htm#sec2cases> (last visited July 27, 2006)).

²⁹ *Aldasoro v. El Centro School District*, 922 F.Supp339 (S.D.Cal. 1995) & *Ruiz v. City of Santa Maria*, Civ. Act. No. 92-4879 JMI(SHX) (C.D.Cal. 1992), *reversed*, 160 F.3rd 543 (9th Cir. 1988), *cert. denied*, 527 U.S. 1022 (1999), *trial on the merits*, Findings of Fact and Conclusions of Law – Granting Judgment to City (filed August 16, 2002).

³⁰ There have been a small number of jurisdictions which have voluntarily converted from an at-large method of election to a district-based election system. *See e.g.*, Hartnell Community College District in Monterey County, the San Jose/Evergreen Community College District, and the Salinas Union High School District in Monterey County. This number is miniscule when compared to the overwhelming number of jurisdictions which still retain an at-large method of election. *See infra* note 136 and accompanying text.

³¹ Source: Annual Report of the Director of the Administrative Office of the United States Courts, Reports of the Proceedings of the Judicial Conference of the United States, Years 1977 - 1996, Tables C 2. Judicial Business of the United States, 1997 - 2004 Annual Reports of the Director, Administrative Office of the U.S. Courts. All websites last visited July 27, 2006. <http://www.uscourts.gov/judbus2004/appendices/c2.pdf> (September 30, 2004, Table C-2, at p. 133); <http://www.uscourts.gov/judbus2003/appendices/c2.pdf> (September 30, 2004, Table C-2, at p. 127); <http://www.uscourts.gov/judbus2002/appendices/c02sep02.pdf> (March 31, 2002, Table C-2, at p. 45) (includes within private cases category, two cases listed under “Diversity of Citizenship” sub-category); <http://www.uscourts.gov/judbus2001/appendices/c02sep01.pdf> (March 31, 2001, Table C-2, at p. 45); <http://www.uscourts.gov/judbus2000/appendices/c02sep00.pdf> (September 30, 2000, Table C-2, at p. 136); <http://www.uscourts.gov/judbus1999/c02sep99.pdf> (September 30, 1999, Table C-2, at p. 137);

Due to the difficulties associated with filing at-large election challenges under the federal Voting Rights Act of 1965, an effort was pursued to create a state voting rights act in California. The State Act was designed to permit the filing of legal actions in state court against at-large methods of election without having to demonstrate the costly and difficult evidentiary standards required under the federal Act. This effort was successful. In 2002, the California State Voting Rights Act became law.³³

The State Voting Rights Act addresses the problem of racially polarized voting within the context of at-large elections. The Act applies to all levels of governments: cities, school districts, special election districts, and judicial districts.³⁴ The plaintiffs' burden is to demonstrate that racially polarized voting prevents the ability of a protected class to elect candidates of their choice or to influence the outcome of an election. To date only two actions have been filed utilizing the State Voting Rights Act. One of the actions was successfully settled involving the Hanford Joint Union High School District.³⁵ The other, involving the City of Modesto, is on appeal after a local Superior Court declared the State Act unconstitutional.³⁶

This extensive recitation of minority vote dilution and at-large elections is necessary to provide a context for the existing voting discrimination that exists on a statewide basis. As previously noted, no action challenging an at-large method of election has been filed by a private party since 1992 – over 14 years ago. The significance of this complete absence of such litigation is only evident when the magnitude of the problem is reviewed.

(A). Statewide Voting Discrimination – Local Governmental Level

In California, the at-large method of election is the election method of choice in over 90% of all local governmental entities. The total number of these jurisdictions in California is an

<http://www.uscourts.gov/dirrpt98/c02sep98.pdf> (September 30, 1998, Table C-2, at p. 143);

http://www.uscourts.gov/judicial_business/c02sep97.pdf (September 30, 1997, Table C-2, at p. 129).

³² See also B. Grofman and C. Davidson, eds., *Controversies in Minority Voting*, The Brookings Institute (1992), at 241 (Gregory A. Caldeira, “Litigation, Lobbying, and the Voting Rights Bar”) (“Members of the voting rights bar outside the federal government institute perhaps 95 percent of these [voting rights] cases in any particular year. Enforcement of voting rights is, therefore, very much an activity of the private sector.”).

³³ Calif. Elections Code §§ 14025 – 14032.

³⁴ The state act only applies to at-large election challenges and not to redistricting actions. *Id.*

³⁵ *Gomez v. Hanford Joint Union High School District*, Civ. Act. No. 04-Co284 (Kings County Superior Court, Cal. 2004).

³⁶ *Sanchez v. City of Modesto*, Case No. 347903 (Stanislaus County Superior Court, Cal. 2004) (Minute Order dismissing case, March 25, 2005), *appeal pending*, No. F048277 (Court of Appeal of the State of California, Fifth Appellate District).

astounding 4,352 governmental entities.³⁷ The use of at-large elections and their potential dilutive effect on minority voting strength has been well documented.³⁸ As previously noted, the potential dilutive effect often results in an under-representation of Latinas/os in local governing bodies, such as city councils, school boards of education, and special election district governing boards. Although Latinas/os in 2000 constituted 32.4% of the state's population,³⁹ yet in 2004 there were only 535 Latinas/os⁴⁰ or 11% out of 4,850 elected local school board members⁴¹ and there were only 357 Latinas/os or 14.2% out of 2,507 elected officials⁴² serving on city councils. Accordingly, if there was complete diversity, then Latinas/os would constitute about 2,384 elected representatives on these local governing boards. Instead Latina/os number 892 or only about 37.4% of their potential. Such a substantial disparity suggests that there are problems surrounding the issue of Latina/o political representation and that there are obstacles preventing Latinas/os from attaining an equal opportunity to participate in the political process and achieve full minority political empowerment.

³⁷ U.S. Bureau of Census, Statistical Abstract of the United States 2004-2005, Table 418 – Number of Local Governments by Type- States: 2002, at State and Local Government Finances and Employment 263, 124th Edition (October 2004). As of April 2005, there are a total of 478 municipalities: 108 chartered cities, and 370 general law cities. <http://www.cacities.org/index.jsp?zone=locc&previewStory=53> (last visited) Out of the total number of cities, only 27 or 5.6% conduct elections by districts. http://www.cacities.org/resource_files/23513.DISTELEC.doc (last visited July 27, 2006) (the City of Coachella is erroneously listed as conducting district elections). As of July 1, 2004, there were 979 elementary to high school public school districts. Based upon a 1995 survey, 65% of these districts conduct at-large elections, 20% have candidate residency districts and at-large voting, and 15% have district elections. California School Board Association, Susan Swigart, Director of Member Services – e-mail dated May 17, 2005, to Joaquin G. Avila. In a 1987 survey of school districts, it was estimated that over 95% of school districts conducted their elections on an at-large election basis. See “Watsonville’s new crop,” Golden State Report, at 27 (September 1987). Recently, the preliminary results of a survey conducted for a project sponsored by the California Research Policy Center entitled “Systems of Election, Latino Representation, and Student Outcomes in California Schools” shows that in 14 California counties containing significant Latina/o populations (Tulare (50.8%), San Benito (47.9%), Monterey (46.8), Merced (45.3%), Madera (44.3%), Fresno (44.0%), Kings (43.6%), Kern (38.4%), Santa Barbara (34.2%), Ventura (33.4%), Stanislaus (31.7%), San Joaquin (30.5%), Santa Cruz (26.8%) and San Luis Obispo (16.3%), there are 170 school districts ranging from a 10% Latina/o population concentration to an 86% concentration which did not have a single Latina/o school board member in 2004. At-large elections were conducted in 168 of those school districts. It is also estimated that there are over 1,000 water districts and over 500 special election districts. Although there are no exact numbers, most of these water districts and special election districts conduct their elections on an at-large basis.

³⁸ See *supra* note 5, *Thornburg*, 478 U.S. at 47, at n. 13.

³⁹ U.S. Bureau of the Census, Table GCT-P6, Race and Hispanic or Latino: 2000; Data Set: Census 2000 Summary File 1 (SF-1) 100 – Percent Data. <http://www.census.gov/> (last visited July 27, 2006).

⁴⁰ National Association of Latin Elected Officials Education Fund, 2004 National Directory of Latino Elected Officials, at 22 (2004).

⁴¹ California School Board Association, Susan Swigart, Director of Member Services – e-mail dated May 17, 2005, to Joaquin G. Avila (total number of school board members).

⁴² California Secretary of State – 2005 Cal. Roster, http://www.ss.ca.gov/executive/ca_roster/ (last visited July 27, 2006).

This history of discrimination that touches upon the right to vote also affects Latinas/os and their representation on county boards of supervisors.⁴³ Providing Latinas/os with an equal opportunity to participate in the political process and elect candidates of their choice at the county board of supervisor levels has been difficult in California. In order to assess this difficulty a demographic and political representation context must be provided. The following table provides the percentage concentration of Latina/o communities in California counties and the level of Latina/o board of supervisor representation.⁴⁴

⁴³ In California, counties are governed by boards of supervisors. See Cal. Gov. Code §§ 23005, 25000, 25207. Supervisors are elected from election districts designated as supervisor districts. *Id.*, § 25040.

⁴⁴ 2000 Census, *supra* note 10, Table P4. The Latina/o political representation percentage was obtained by visiting the county's homepage website and the elections results website for the Gubernatorial Primary Election held on June 6, 2006, for each of the counties (websites visited July 28, 2006). Imperial County - <http://www.co.imperial.ca.us/Supervisors/Supervisors.htm>; election results - <http://www.imperialcounty.net/Election/2006-06-06/Summary%20Report%20FINAL.pdf>. Tulare County - <http://www.co.tulare.ca.us/government/board/default.asp>; election results - <http://www.tularecoelections.org/Junevnyr/ElectionResult.htm>. San Benito - <http://www.san-benito.ca.us/>; election results – no website – Joaquin G. Avila checked with elections department by phone – July 28, 2006). Monterey County - <http://www.co.monterey.ca.us/supervisors.htm>; election results - http://montereycountyelections.us/Election_Result.htm. Colusa County - http://www.colusacountyclerk.com/board_of_supervisors/Default.asp; election results - http://www.colusacountyclerk.com/elections/documents/RESULTSelection_004.pdf. Merced County - <http://web.co.merced.ca.us/bos/district1.html>; election results - <http://web.co.merced.ca.us/elections/june62006results.html>. Los Angeles County - <http://molina.co.la.ca.us/>; election results - http://rrccmain.co.la.ca.us/1275_CountyContest_Frame.htm. Madera County - <http://www.madera-county.com/supervisors/index.html>; election results - <http://www.madera-county.com/eresults/electionjun2006.pl?cgifunction=Search>. Fresno County - <http://www.co.fresno.ca.us/0110a/default.asp>; election results - <http://www.co.fresno.ca.us/2850/Results/results-1.htm>. Kings County - <http://www.countyofkings.com/bos/index.htm>; election results - http://www.countyofkings.com/acr/elections/results/Current%20Results/Election%20Result_idx.htm. San Bernardino County - <http://www.co.san-bernardino.ca.us/bos/>; election results - http://www.co.san-bernardino.ca.us/rov/current_elections/060606/default.asp?ElectionID=96&ElecDateID=. Kern County - <http://www.co.kern.ca.us/bos/>; election returns - <http://elections.co.kern.ca.us/elections/results/June06/default.htm>. Riverside County - http://www.countyofriverside.us/portal/page?_pageid=133,304409,133_310673&_dad=portal&_schema=PORTAL; election results - <http://www.election.co.riverside.ca.us/docs/Non-Partisan%20SOV.pdf>. Santa Barbara County - <http://www.countyofsb.org/cao/cob/hearings/board.asp>; election results - http://sbcvote.com/elect/resources/results6_2006/results-1.htm. Ventura County - http://portal.countyofventura.org/portal/page?_pageid=234,1&_dad=portal&_schema=PORTAL; election results - <http://recorder.countyofventura.org/Election%20Result.htm>. Stanislaus County - <http://www.co.stanislaus.ca.us/BOARD/Board.htm>; election returns - <http://stanvote.com/pastresults/06-06-2006.htm>. Orange County - <http://www.oc.ca.gov/supervisors/supervisors.asp>; election results - <http://www.oc.ca.gov/ELECTION/Live/pri2006/results.htm>. San Joaquin County - <http://www.co.san-joaquin.ca.us/>; election results - <http://www.sjcrov.org/results.html>. Glenn County - <http://www.countyofglenn.net/Board/Board.asp>; election returns - http://www.countyofglenn.net/elect/vote_results.asp. Santa Cruz County - <http://www.co.santa-cruz.ca.us/bds/ctysupvs.htm>; election results - <http://www.votescount.com/jun06/frame12.htm>. San Diego - <http://www.sdcounty.ca.gov/general/bos.html>; election results - <http://www.co.san-diego.ca.us/voters/Eng/archive/200606bull.pdf>. Yolo County - <http://www.yolocounty.org/org/bos/board.html>;

| | Geography | Percent Latina/o | Percent Latina/o Board of Supervisors |
|----|---|------------------|---------------------------------------|
| 1 | Imperial County, California | 72.2% | 20.0% |
| 2 | Tulare County, California ⁴⁵ | 50.8% | 0.0% |
| 3 | San Benito County, California | 47.9% | 20.0% |
| 4 | Monterey County, California ⁴⁶ | 46.8% | 20.0% |
| 5 | Colusa County, California | 46.5% | 0.0% |
| 6 | Merced County, California | 45.3% | 0.0% |
| 7 | Los Angeles County, California | 44.6% | 20.0% |
| 8 | Madera County, California | 44.3% | 20.0% |
| 9 | Fresno County, California | 44.0% | 20.0% |
| 10 | Kings County, California | 43.6% | 20.0% |
| 11 | San Bernardino County, California | 39.2% | 20.0% |
| 12 | Kern County, California | 38.4% | 20.0% |
| 13 | Riverside County, California | 36.2% | 0.0% |
| 14 | Santa Barbara County, California | 34.2% | 40.0% |
| 15 | Ventura County, California | 33.4% | 0.0% |
| 16 | Stanislaus County, California ⁴⁷ | 31.7% | 0.0% |
| 17 | Orange County, California | 30.8% | 20.0% |
| 18 | San Joaquin County, California | 30.5% | 20.0% |

election returns - <http://www.yoloelections.org/returns/>. Santa Clara County - http://www.sccgov.org/portal/site/scc/menuitem.cf081aed392e35dfae3cdd102830a429?path=%252Fv7%252FSCC%2520Public%2520Portal%252Fsite_level_content&contentId=be0a08dfd33f6010VgrVCMP2200049dc4a92 ; election returns - <http://www.sccgov.org/elections/results/june2006/>. Napa County - <http://www.co.napa.ca.us/GOV/Departments/DeptPage.asp?DID=10100&LID=103>; election results - <http://www.co.napa.ca.us/GOV/Departments/DeptPage.asp?DID=13600&LID=971#cont94>. Sutter County - http://www.co.sutter.ca.us/doc/government/bos/bos_home; election results - <http://www.suttercounty.org/Government/depts/cr/elections/result11.htm>. San Mateo - http://www.co.sanmateo.ca.us/smc/departement/bos/home/0..1864_2133.00.html; election results - <http://www.shapethefuture.org/elections/results/june2006/June606Results.pdf>.

⁴⁵ As a result of the June 6, 2006, election, Bob Perez is in a run-off election for Supervisor District 5. <http://www.tularecoelections.org/Junevnyr/ElectionResult.htm> (last visited July 28, 2006).

⁴⁶ In Monterey County, Assemblyman Simon Salinas was elected to County Supervisor District 3 in the June 2006 primary elections. Monterey County Elections, http://montereycountyelections.us/Election_Result.htm. http://montereycountyelections.us/election_returns/results20060606.pdf. He will assume office on January 1, 2007. As a result of his election, Monterey County will have two Latinos serving on the Board of Supervisors in 2007.

⁴⁷ As a result of the June 6, 2006, election, Gary Lopez is in a run-off election for Supervisor District 3. <http://stanvote.com/pastresults/06-06-2006.htm> (last visited July 28, 2006).

| | Geography | Percent Latina/o | Percent Latina/o Board of Supervisors |
|----|--------------------------------|-------------------------|--|
| 19 | Glenn County, California | 29.6% | 0.0% |
| 20 | Santa Cruz County, California | 26.8% | 20.0% |
| 21 | San Diego County, California | 26.7% | 0.0% |
| 22 | Yolo County, California | 25.9% | 0.0% |
| 23 | Santa Clara County, California | 24.0% | 20.0% |
| 24 | Napa County, California | 23.7% | 0.0% |
| 25 | Sutter County, California | 22.2% | 0.0% |
| 26 | San Mateo County, California | 21.9% | 0.0% |

This table demonstrates a substantial level of Latina/o under-representation on county board of supervisors in counties having a significant Latina/o population concentration. Of particular note are the Counties of Tulare (50.8% - Latina/o), Colusa (46.5% - Latina/o), Merced (45.3% - Latina/o), Riverside (36.2% - Latina/o), and Ventura (33.4% - Latina/o) which do not have any Latina/o members on the county board of supervisors.

Unfortunately, in California, the most effective method for addressing this dearth of Latina/o representation on county boards of supervisors has been through litigation. The most significant challenge involved Los Angeles County.⁴⁸ As previously noted, in the *Garza* litigation the Latina/o community along with the United States Department of Justice jointly challenged a supervisor redistricting plan enacted in 1981.⁴⁹ The redistricting plan fragmented the predominantly Latina/o community located in East Los Angeles. The District Court found that elections in Los Angeles County were characterized by racially polarized voting and that the board of supervisors had intentionally fragmented a politically cohesive Latina/o community in order to maintain their incumbencies.⁵⁰ Also, as previously discussed, as a result of a new redistricting plan,⁵¹ the first Latina was elected to the Board of Supervisors.⁵²

A redistricting challenge of similar importance occurred in Monterey County. The 1990 Census showed that Latinas/os constituted 33.6% of County's population.⁵³ At the time of the 1991 county supervisor redistricting process, there had not been a single Latina/o serving on the

⁴⁸ See *supra* note 7.

⁴⁹ See *supra* note 7 and accompanying text.

⁵⁰ See *supra* note 7, 756 F.Supp. at 1304 – 1305, 1312 – 1318, 1328 – 1339.

⁵¹ *Garza*, 918 F.2d at 768.

⁵² See *supra* note 73.

⁵³ U.S. Census Bureau, 1990 Census, Data Set: 1990 Summary Tape File 1 (STF-1) – 100 – Percent Data: Table P001 – Persons – Universe: Persons; Table P008 – Persons of Hispanic Origin – Universe: Persons by Hispanic Origin.

board of supervisors since 1893.⁵⁴ After the completion of the county supervisor redistricting, the plan was submitted for Section 5 review.⁵⁵ Shortly thereafter Latinas/os filed an action based upon Section 5 and Section 2 of the Voting Rights Act of 1965. Since the redistricting plan had not received Section 5 preclearance, the plaintiffs argued that the court should enjoin the implementation of the plan in the upcoming 1992 elections. Alternatively, if the redistricting plan received Section 5 approval, the plan violated the Section 2 rights of Latinas/os by fragmenting a politically cohesive minority community.⁵⁶

This Monterey County litigation was not a typical suit. After the lawsuit was filed, the United States Attorney General requested additional information from the County. This request prompted the county to seek a settlement with the Latina/o plaintiffs. A settlement was reached that avoided the fragmentation of the Latina/o community. However, as a result of a referendum petition, voter approval of the county ordinance incorporating the redistricting plan was necessary. The referendum was successful in invalidating the county ordinance. Thereafter, the County was permitted another opportunity to adopt a new redistricting plan.⁵⁷ The County was given until February 26, 1993, to secure the adoption of a redistricting plan and its subsequent Section 5 approval.⁵⁸ The new plan was adopted and submitted to the United States Attorney General for Section 5 approval. After receiving comments from the Latina/o community, the Attorney General issued a Letter of Objection.⁵⁹

⁵⁴ J. Morgan Kousser, Tacking, Stacking, and Cracking: Race and Reapportionment in Monterey County, 1981-1992, A Report for *Gonzales v. Monterey County Board of Supervisors*, Revised Version, September 9, 1992, at 25.

⁵⁵ *Gonzalez v. Monterey County*, 808 F.Supp. 727, 729 (N.D.Cal. 1992). Monterey County is subject to Section 5 preclearance. See 28 C.F.R. Part 51, Appendix. Section 5 of the 1965 Voting Rights Act, 42 U.S.C. § 1973c, requires covered jurisdictions to submit any change affecting voting to either the United States District Court for the District of Columbia or the United States Attorney General for a determination that the proposed change was not adopted pursuant to a discriminatory purpose and does not have a discriminatory effect on minority voting strength. A Section 5 enforcement action is filed in a local federal district court when the covered jurisdiction has not submitted a proposed voting change for Section 5 approval.

⁵⁶ *Gonzalez*, 808 F. Supp. at 729.

⁵⁷ After the invalidation of the previously agreed upon settlement plan, the County sought to have court approval of two alternative redistricting plans. One alternative redistricting plan was developed on behalf of a group of intervenors representing north county interests. However, the County endorsed this plan thereby raising a substantial question of whether the proposed redistricting plan was subject to Section 5 approval thereby requiring the convening of a three judge court. Since there was a substantial question presented, the proposed alternative was not valid as legitimate proposal until the Section 5 question had been addressed. Another proposal developed by the County's demographer with input by County's special counsel was also deemed to have the County's endorsement. As with the previous alternative plan, such endorsement raised a substantial question of whether this proposed alternative also was subject to Section 5 preclearance. Since both of these plans were not legally valid, the only valid plan available was a plan presented on behalf of the Latina/o plaintiffs. *Id.*, 808 F.Supp. at 729 – 736. However before any redistricting plan was to be adopted, the County was given another opportunity to formulate a new plan that met constitutional and statutory standards.

⁵⁸ *Id.*, 808 F.Supp. at 729 – 736.

⁵⁹ Letter of Objection, dated February 26, 1993 (Monterey County, California). A letter of objection issues when the Attorney General determines that the submitting jurisdiction has not met its Section 5 burden of demonstrating that the proposed voting change does not have a discriminatory effect on minority voting strength and was not adopted pursuant to a discriminatory purpose. 28 C.F.R. § 51.44 (7-01-03 Edition).

The Attorney General concluded that Monterey County had not met its Section 5 burden. Although the new redistricting plan incorporated two supervisor districts each with a majority of Latina/o population, non-white Latinas/os comprised a plurality of the eligible voter population in each of the districts. Such an eligible voter population distribution was accomplished by fragmenting politically cohesive Latina/o voting communities in the City of Salinas and the northern part of the County. As noted by the Attorney General:

“Your submission fails to disclose a sufficient justification for rejection of available alternative plans with total population deviations below ten percent that would have avoided unnecessary Hispanic population fragmentation while keeping intact the identified black and Asian communities of interest in Seaside and Marina. The proposed redistricting plan appears deliberately to sacrifice federal redistricting requirements, including a fair recognition of Hispanic voting strength, in order to advance the political interests of the non-minority residents of northern Monterey County.”⁶⁰

After the issuance of the Letter of Objection, the District Court implemented the plaintiffs’ plan in a special 1993 election. As the result of the Letter of Objection and the implementation of a court-ordered, a Latino was elected to the Board of Supervisors for the first time in over a hundred years.⁶¹

The fragmentation of Latina/o political power was also engineered in Tulare County. As previously noted, Tulare County had a 50.8% Latina/o population and currently no Latina/o representative on the County Board of Supervisors.⁶² During the time period from 1990 to 2000, Tulare County experienced an increase of 56,100 persons.⁶³ However, during this same time period the Latina/o community increased by 65,953 persons, thereby accounting for all of the total population growth rate in Tulare County. In recognition of this significant growth rate members of the Latina/o community sought the creation of two county supervisor districts out of a total of five that would provide the Latina/o community with an effective opportunity to participate in the political process and elect candidates of its choice.

Unfortunately, the Board of Supervisors did not accede to this request. When the 2000 Census data and Spanish surname voter registration was applied to the redistricting plan adopted in the 1990s, Supervisor District 4 had a 72% Latina/o total population concentration and a 48% Spanish surname voter registration rate. Supervisor District 2 was the next highest district with a

⁶⁰ See *supra* note 158, Letter of Objection at 3.

⁶¹ Katie Niekerk, *Perkins, Salinas vie for Assembly seat*,” Gilroy Dispatch, Oct. 21, 2004. <http://www.gilroydispatch.com/news/contentview.asp?c=128571>.

⁶² See *supra* note 143 and accompanying Table.

⁶³ See *supra*, note 152, 1990 Census, Tables P001, P008 & note 23, 2000 Census, Tables P4.

54% Latina/o population concentration and a 34% Spanish surname voter registration rate. To provide the Latina/o community with greater political access, community representatives presented a proposal that would have increased the numbers of the second district (District 5) to a 72% Latina/o population concentration, a 67% Latina/o voting age population and a Spanish surname voter registration rate of 46%. The community proposal would have kept the District 4 Latina/o population percentage at 72% with a 68% Latina/o voting age population and a Spanish surname voter registration rate of 47%. Instead of providing the Latina/o community with a second supervisor district where the community would have a meaningful opportunity to participate in the political and elect candidates of its choice, the Board of Supervisors chose to fragment the Latina/o community into three districts.⁶⁴ This fragmentation continues to this day.

In summary, there has been a history of discrimination touching upon the right to vote that has affected the ability of Latinas/os to secure access to the political process at the local governmental level. This history has continuing effects given the patterns of racially polarized voting that have been documented in court cases. This history coupled with racially polarized voting has resulted in the complete absence of Latina/o political representation in many cities, school districts, and in county board of supervisors, containing significant Latina/o populations. This discussion on the first factor of a history of statewide discrimination, however, is not complete. Unfortunately this history must also include a reference to the failure of jurisdictions to comply with the requirements of Section 5 preclearance and bilingual elections mandated by the Voting Rights Act. This additional discussion will demonstrate that the factor of a statewide history of discrimination touching upon the right to vote is pervasive and long-standing.

(B). Statewide Voting Discrimination – the Absence of Section 5 Compliance

The Section 5 preclearance provision⁶⁵ has had a significant impact on Latina/o political empowerment in California. As a result of the application of a triggering formula incorporated in Section 4(b) of the Act, 42 U.S.C. § 1973 b(b), a jurisdiction, such as a state, county, city, school district, or special election district, must submit all changes affecting the right to vote enacted after a certain date to the United States Attorney General or the United States District Court for the District of Columbia for approval.⁶⁶ Since 1972, there have been six letters of objection issued by the United States Attorney General.

⁶⁴ The Board plan did keep District 4 at the same level of Latina/o population and Spanish surname voter registration levels as incorporated in the 1990s plan. However the remaining portion of the Latina/o registered voter community was divided into Districts 1, 2, 3, and 5, with no such district having a Spanish surname voter registration rate of over 40%. Tulare County, Board of Supervisors, Amended Resolution No. 2001-0713 (In the Matter of Findings as to the Adjustment of Supervisorial Boundaries After the 2000 Census); Tulare County, Geographic Information Systems Maps and accompanying Demographic Information.

⁶⁵ 42 U.S.C. § 1973c. *See supra*, note 154.

⁶⁶ In California, there are only four counties subject to the Section 5 preclearance requirements: Monterey County, King County, Merced County, and Yuba County. 28 C.F.R. Part 51, Appendix.

The first letter issued in 1976 objected to the failure of Yuba County⁶⁷ to translate ballots and candidate qualification statements in accordance with the bilingual election requirements of the 1965 Voting Rights Act, as amended in 1975.⁶⁸ A similar letter of objection was issued against Monterey County in 1977.⁶⁹ The Attorney General objected to the plan adopted by Monterey County to comply with the Section 203 bilingual election requirements. The remaining letters involved objections to devices which have traditionally served to discriminate against minority voting strength. Two of the letters involved redistrictings of county supervisor districts in Merced County⁷⁰ and in Monterey County.⁷¹ In both of these instances the ultimate result was the election of a Latina/o candidate for the board of supervisors. In Monterey County, as discussed above, the last time a Latina/o had been elected was over a hundred years ago. The remaining two letters merit an expanded discussion because these letters demonstrate that covered jurisdictions would have reverted to discriminatory election features but for the issuance of the letter of objections.

The City of Hanford is located in Kings County, a county subject to the Section 5 preclearance requirements. The City of Hanford had undertaken a series of annexations that had not been submitted for Section 5 approval on a timely basis. After an extended delay, the City of Hanford submitted these annexations for Section 5 preclearance.⁷² The United States Attorney General issued a Letter of Objection.⁷³ The Attorney General concluded that the City of Hanford had not met its burden of demonstrating that the proposed annexations did not have a

⁶⁷ Letter of Objection, May 26, 1976 (Yuba County, California).

⁶⁸ The bilingual election provisions apply to jurisdictions subject to Section 5 review if the jurisdictions meet certain language minority population thresholds and English proficiency levels. These are commonly referred to as Section 4(f)(4) jurisdictions. 42 U.S.C. § 1973b(f)(4). The bilingual election provisions also apply to jurisdictions meeting the language minority population thresholds and English proficiency levels irrespective of whether these jurisdictions are subject to Section 5 preclearance. These are generally known as Section 203 jurisdictions. 42 U.S.C. § 1973aa-1a. A Section 5 covered jurisdiction can be subject to both requirements. *See generally* 28 C.F.R. §§ 55.5 & 55.6 (specifies the population characteristics and language proficiency levels that are part of the triggering formula).

⁶⁹ Letter of Objection, March 4, 1977 (Monterey County, California).

⁷⁰ Letter of Objection, April 3, 1992 (Merced County, California).

⁷¹ Letter of Objection, February 26, 1993 (Monterey County, California). *See also Gonzalez, supra*, note 154. The events surrounding the issuance of this Letter of Objection have been previously discussed. *See text commencing with note 152.*

⁷² Annexations affect the size of voting constituencies and are thus subject to Section 5 preclearance. *City of Richmond v. U.S.*, 422 U.S. 358 (1975).

⁷³ Letter of Objection, April 5, 1993 (City of Hanford, Kings County, California). The Letter noted that this was the first instance that the City sought Section 5 approval of its annexations. Some of the annexations were adopted shortly after the City became subject to the Section 5 preclearance requirements. The operative date for submitting annexations was September 23, 1972. However, the City did not submit all of its annexations for Section 5 approval until 1993 – a lapse of **over twenty years**. The Letter also noted that other voting changes had not been submitted. Accordingly, the Department of Justice encouraged the City to comply with the Section 5 preclearance requirements: “We encourage the city promptly to take all steps necessary to bring the city into full compliance with Section 5.” Letter at p. 1.

discriminatory effect on minority voting strength.⁷⁴ After an unsuccessful effort to seek a withdrawal of the Letter of Objection and an accompanying Section 5 lawsuit,⁷⁵ the City agreed to implement a district based method of election. This districting plan ultimately resulted in the election of one Latina and one Latino to the City Council in a city containing a significant Latina/o population. The effort by the City to seek a withdrawal of the letter of objection clearly indicates that the City would have continued to maintain its at-large method of electing members to the city council instead of voluntarily adopting a district based election system that would have provided Latinas/os access to the political process.

Any doubt as to whether covered jurisdictions in California would revert to discriminatory methods of election absent Section 5 preclearance is laid to rest with the attempted conversion from a district election system⁷⁶ to an at-large method of election for the Chualar Union Elementary School District in Monterey County. The Department of Justice issued a Letter of Objection which prevented this conversion from occurring.⁷⁷ The school district at one time had elected its board members pursuant to an at-large method of election. In 1995, when the Latina/o board membership consisted of a majority of the board, the method of election was changed to a district based election system. However, a dispute arose between the Latina/o board members and members of the white community. This dispute led to the effort to return to an at-large election system. The Department of Justice found that the cover letter accompanying the petition to change the method of election contained language that was expressed in a tone that “. . . raises the implication that the petition drive and resulting change was motivated, at least in part, by a discriminatory animus.” Moreover the letter stated that under the previous at-large method of election, the Latina/o board members were susceptible to recall petitions, whereas under the district based election system, Latina/o board members have not been subject to recall. In Chualar, the absence of the protective features of Section 5 would have resulted in a reversion to the former discriminatory at-large method of election.

The letters of objections issued by the Department of Justice in California provide documentation of the withdrawal of proposed changes affecting voting that would have resulted in the a discriminatory effect against minority voting strength. However, in some instances there is no letter of objection because the covered jurisdiction has decided to eliminate the discriminatory features of the proposed change. Since there is an absence of a letter of objection, there is no official determination regarding the positive effect of Section 5 preventing the implementation of a questionable voting change. Such an example is again provided by Monterey County.

⁷⁴ *Id.*, at 2. The annexations would have reduced the Latina/o population of the City from 35.9% to 29.4%.

⁷⁵ *Yrigollen v. City of Hanford*, Civ. Act. No. CV-F-93-5303 OWW (E.D.Cal. 1993).

⁷⁶ The district election scheme consisted of at least one district containing three school board members. This multimember district was predominantly Latina/o. Letter of Objection, March 29, 2002, at 2 (Chualar Union Elementary School District, Monterey County, California).

⁷⁷ *Id.*

In Monterey County election officials decided to reduce the number of polling places for the special gubernatorial recall election held on October 7, 2003. According to county officials, the number of polling places utilized in the November 2002 general election was reduced from 190 to 86 for the special recall election.⁷⁸ The Department of Justice ultimately approved the voting precinct consolidations only after Monterey County withdrew from Section 5 consideration five precinct and polling place consolidations.⁷⁹

Apart from these six letters of objection, there is another major problem in these Section 5 covered jurisdictions: failure to comply with the submission requirements of Section 5. To achieve the purpose of eliminating voting discrimination, the Voting Rights Act of 1965 relies upon Section 5 covered jurisdictions to voluntarily submit their voting changes for approval pursuant to Section 5. Based upon a long series of cases culminating in *Lopez (I)*,⁸⁰ Section 5 covered jurisdictions are under a legal mandate to submit their voting changes prior to implementation in any elections. In reality, many Section 5 covered jurisdictions are delinquent in the timely submission of their voting changes. Some jurisdictions, but for litigation, would not have submitted any voting changes. The covered jurisdictions in California are prime examples of this failure to comply.

Beginning in 1968, Monterey County began adopting a series of judicial district consolidations that resulted in reducing the number of judicial districts from nine to one countywide judicial district in 1983.⁸¹ Only the voters residing in these judicial districts could vote for the judicial candidates for a particular judicial district. Several of these judicial districts included significant concentrations of Latina/o voters. If the judicial districts had not been consolidated, the possibility of electing Latina/o judges would have increased. Instead the judicial districts were ultimately consolidated into one countywide district where Latina/o voters were a numerical minority. These judicial district consolidations were not submitted for Section 5 approval. Even after a Section 5 enforcement action was instituted to require the submission of judicial district consolidations for Section 5 approval, these consolidations were not submitted for the requisite review. It was only after nine years of litigation and two Supreme Court decisions, *Lopez (I)* and *Lopez (II)*⁸² that the required Section 5 approval was obtained.⁸³

⁷⁸ Monterey County Elections, Tony Anchundo, Registrar of Voters, “Expedited Request for Preclearance of Changes Affecting Voting in Monterey County California for the Special Statewide Election and the Special County-Wide Election Consolidated and Scheduled for October 7, 2003,” at p. 2, August 14, 2003.

⁷⁹ U.S. Department of Justice, Second Letter of Approval, dated September 4, 2003. In the second Letter issued on September 4, 2003, the Attorney General noted that Monterey County had withdrawn the following consolidations: “Salinas 504, 601, 604 and 605 (Regency Court Seniors Apartment Recreation Room); Salinas 501 and 502 (Lampighter Club Room); Natividad 1 and 2 and Santa Rita 4 and 5 (Sheriff’s Posse Club House); Elkhorn and Lake 1 and 2 (Echo Valley School Library); and Pajaro 3, 4, 6, 7 and 8 (Full Gospel Church of Las Lomas).” Letter at p. 2.

⁸⁰ *Lopez v. Monterey County (I)*, 519 U.S. 9 (1996).

⁸¹ See generally, *Lopez v. Monterey County*, 871 F. Supp. 1254 (N.D.Cal. 1994).

⁸² *Lopez v. Monterey County (II)*, 525 U.S. 266 (1999).

⁸³ Similarly as previously noted, the City of Hanford waited over twenty years before submitting all of their annexations for the required Section 5 approval. See *supra* note 172.

This record of non-compliance with the submission requirements of Section 5 in California is consistent with the experiences of other jurisdictions and their failure to comply with the Section 5 requirements since the enactment of the 1965 Voting Rights Act. This record of non-compliance has been cited numerous times by the United States Commission on Civil Rights,⁸⁴ by congressmen and witnesses in testimony when the Act was reauthorized in 1970,⁸⁵ 1975,⁸⁶ and 1982,⁸⁷ by the Government Accounting Office,⁸⁸ and by Supreme Court precedent.⁸⁹

⁸⁴ United States Commission on Civil Rights, Political Participation, A study of the participation by Negroes in the electoral and political processes in 10 Southern States since passage of the Voting Rights Act of 1965, at 184 (1968) (Commission recommended that the Attorney General "... should promptly and fully enforce Section 5"); U.S. Commission on Civil Rights, The Voting Rights Act: Ten Years After, at 28 ("Non-compliance with the Voting Rights Act through failure to submit changes remains a problem in enforcement of the act.") (January 1975); U.S. Commission on Civil Rights, The Voting Rights Act: Unfulfilled Goals (September, 1981), at 70–75 (chronicling extent of failure to submit voting changes for Section 5 preclearance).

⁸⁵ *Voting Rights Act Extension: Hearings on H.R. 4249, H.R. 5538, and Similar Proposals, to Extend the Voting Rights Act of 1965 with Respect to the Discriminatory Use of Tests and Devices Before Subcomm. No. 5 of the House Comm. on the Judiciary*, 91st Cong. 4 (statement of William McCulloch, Member, House Comm. on the Judiciary) ("Section 5 was intended to prevent the use of most of these devices. But apparently the States rarely obeyed the mandate of that section, and the Federal Government was too timid in its enforcement."), 18 (statement of Howard A. Glickstein, General Counsel and Acting Staff Director, U.S. Comm'n on Civil Rights: "Despite the requirements of section 5, the State of Mississippi made no submission to the Attorney General, and the new laws were enforced.") (1969). See also *Amendments to the Voting Rights Act of 1965: Hearings on S. 818, S. 2456, S. 2507, and Title IV of S. 2029, Bills to Amend the Voting Rights Act of 1965 Before the Subcommittee on Constitutional Rights of the Senate Committee on the Judiciary*, 91st Cong. 51–53 (statement of Frankie Freeman, Member, U.S. Comm'n on Civil Rights – Commissioner Freeman acknowledged that most states complied with Section 5, but did recognize that there were instances of non-compliance which could be addressed through litigation by the United States Attorney General) (1969).

⁸⁶ *Extension of the Voting Rights Act, Hearings on H.R. 939, H.R. 2148, H.R. 3247, and H.R. 3501, Extension of the Voting Rights Act, Before the Subcommittee on Civil and Constitutional Rights of the Committee on Civil and Constitutional Rights of the Committee on the Judiciary, House of Representatives*, 94th Cong. 281 (statement of J. Stanley Pottinger, Assistant Attorney General, Civil Rights Division) ("In summary, the protections of section 5, should be expanded because: first, it has been effective in preventing discrimination; second, it has never been completely complied with by the covered jurisdiction; and third, the guarantees it provides are more significant to the country than the slight interference to the Federal system which this powerful provision would incur.") (1975).

⁸⁷ *Extension of the Voting Rights Act: Hearings on Extension of the Voting Rights Act Before the Subcomm. on Civil and Constitutional Rights of the House Comm. on the Judiciary*, 97th Cong. 2117 (statement of Drew S. Days III, Assistant Attorney General, Civil Rights Division) ("... I will not sit before you today and assert that even during what I think was a period of vigorous enforcement of the Act that the Department was able to ensure that every, or indeed most, electoral changes by covered jurisdictions were subjected to the Section 5 process. There was neither time nor adequate resources to canvas systematically changes since 1965 that had not been precleared, to obtain compliance with such procedures or even, in a few cases, to ascertain whether submitting jurisdictions had complied with objections to proposed changes. It was not uncommon for us to find out about changes made several years earlier from a submission made by a covered jurisdiction seeking preclearance of a more recent enactment.") (1982).

⁸⁸ *GAO Report on the Voting Rights Act: Hearings on GAO Report on the Voting Rights Act Before the House Subcommittee on Civil and Constitutional Rights, of the Committee on the Judiciary*, 95th Cong. 84 (Report noted that the Department of Justice did not systematically identify and secure the submission of voting changes enacted by covered jurisdictions and that Department's efforts were at best "sporadic" and fell "far short of formal systematic procedures to make sure that changes affecting voting are submitted.") (1978).

This sordid history of non-compliance continues to this day in California. As demonstrated in the following tables, in Merced County, California, there are cities and special election districts that have not submitted their annexations for Section 5 approval. There are at least a total of 226 annexations that have not been submitted for Section 5 review.⁹⁰

| I. II. Table 1 III. Merced County, California – Section 5 Non-Compliance IV. | | | | | |
|---|--|--|---|--|--|
| V. Type of Political Jurisdiction | VI. Number of Political Jurisdictions | VII. Type and Number of Voting Changes: VIII. Annexations | IX. Type and Number of Voting Changes: X. Formations | XI. Type and Number of Voting Changes: XII. Detachments | XIII. Type and Number of Voting Changes: Consolidations |
| XIV. Cities | XV. 5 | XVI. 100 | XVII. | XVIII. | XIX. |
| XX. Water Districts | XXI. 16 | XXII. 80 | XXIII. | XXIV. | XXV. |
| XXVI. Water Districts | XXVII. 6 | XXVIII. | XXIX. 6 | XXX. | XXXI. |
| XXXII. Other Districts | XXXIII. 2 | XXXIV. 2 | XXXV. | XXXVI. | XXXVII. |
| XXXVIII. Water Districts | XXXIX. 5 | XL. | XLI. | XLII. 37 | XLIII. |
| XLIV. Other Districts | XLV. 1 | XLVI. | XLVII. | XLVIII. | XLIX. 1 |
| L. Totals | LI. 35 | LII. 182 | LIII. 6 | LIV. 37 | LV. 1 |

LVI.

| | | |
|--|--------------|---------------|
| LVII. | | |
| LVIII. Table 2 | | |
| LIX. | | |
| LX. Summary of Voting Changes Merced County, California | | |
| LXI. | LXII. | LXIII. |

⁸⁹ See, e.g., *Perkins v. Matthews*, 400 U.S. 379, 393, n. 11 (1971) (in reviewing a table of submissions prepared by the Attorney General which demonstrated “... that only South Carolina has complied rigorously with § 5 . . .” the Court stated: “The only conclusion to be drawn from this unfortunate record is that only one State is regularly complying with § 5’s requirement.”).

⁹⁰ Joaquin G. Avila, Report on Section 5 Non-Compliance: The Absence of Federal Enforcement, Prepared for the Leadership Conference on Civil Rights Education Fund, June 24, 2006, at 5.

| | | |
|---|------------------------------|---------------------------------------|
| LVII. | | |
| LVIII. Table 2 | | |
| LIX. | | |
| LX. Summary of Voting Changes Merced County, California | | |
| LXIV. | LXV. Annexations | LXVI. 82 |
| LXVII. | LXVIII. Formations | LXIX. |
| LXX. | LXXI. Detachments | LXXII. 7 |
| LXXIII. | LXXIV. Consolidations | LXXV. |
| LXXVI. Total Number of Voting Changes Not Submitted for Section 5 Review | | LXXVI. LXXVII. 26 |

LXXIX.

As demonstrated by the examples provided by Monterey County, the City of Hanford, and Merced County, this record of Section 5 non-compliance has been present since the late 1960s. Such a record provides further evidence that there is a history of discrimination in California that touches upon the right to vote.

Additional evidence supporting a finding of a history of discrimination in California that touches upon the right to vote is found in the failure of these covered jurisdictions to pursue an action seeking an exemption from the Section 5 preclearance requirement. Seeking such an exemption is often referred to as a bailout lawsuit. Under the bailout provisions, covered jurisdictions can institute an action in the United States District Court for the District of Columbia seeking a judicial declaration that the covered jurisdictions are no longer subject to Section 5 preclearance.⁹¹ Before such a declaratory judgment can issue the covered jurisdiction must meet several requirements.⁹² For a ten year period prior to the filing of the declaratory judgment action, the covered jurisdiction must demonstrate, among other requirements, that all changes affecting voting have been submitted for Section 5 preclearance prior to implementation in the electoral process,⁹³ that the covered jurisdiction or its political subunits⁹⁴ must not have been the subject of a Letter of Objection or the denial of a declaratory judgment pursuant to Section 5,⁹⁵ that no judgments or consent decrees have been entered in any litigation affecting the right to vote,⁹⁶ and that the covered jurisdiction should “. . . have eliminated voting

⁹¹ 42 U.S.C. § 1973(b)(a).

⁹² See generally S.Rept. 97-417, *supra*, note 16, at 46-62.

⁹³ 42 U.S.C. § 1973(b)(a)(1)(D).

⁹⁴ 28 C.F.R. § 51.6 (7-1-03 Edition).

⁹⁵ 42 U.S.C. § 1973(b)(a)(1)(E).

⁹⁶ 42 U.S.C. § 1973(b)(a)(1)(B).

procedures and methods of election which inhibit or dilute equal access to the electoral process .
...⁹⁷

Compliance with these bailout provisions indicates that a covered jurisdiction is judicially certified to be free of any election structures or features that discriminate against minority voting strength. However in California, three of California's Section 5 covered jurisdictions, the Counties of Monterey, Merced, and Kings Counties, would not be eligible for this certification because of their failure to comply with Section 5 and their failure to remove all election systems that have the potential of discriminating against Latina/o voting strength. First, Merced County would have difficulty demonstrating that there are no discriminatory methods of elections within the County that deny minorities with equal access to the political process.⁹⁸ For example, the City of Los Banos has a total population of 25,869, based upon the 2000 Census, of which 13,048 or 50.4% are Latina/o.⁹⁹ The at-large method of election is implemented to select members to the City Council.¹⁰⁰ Despite this large concentration of Latinas/os within the City there is not a single Latina/o serving on the City Council.¹⁰¹ Such an absence clearly suggests that the at-large method of electing members to the Los Banos City Council may have a dilutive effect on Latina/o voting strength and thus would impede the efforts of Merced County to seek a Section 5 bailout. In addition, based upon an on-site study of annexations for cities and special election districts, there are 226 annexations that have not been submitted for Section 5 approval. This factor would also prevent Merced County from successfully securing a Section 5 bailout.

The remaining two counties also would not be successful in securing a Section 5 bailout. In Kings County, the recent settlement involving the Hanford Joint Union High School District that resulted in the abandonment of the at-large method of election and the implementation of district elections would prevent Kings County from bailing out from Section 5 coverage.¹⁰² In Monterey County, the recent Letter of Objection issued against the Chualar Union Elementary School District on March 29, 2002, would have a similar impact.¹⁰³

⁹⁷ 42 U.S.C. § 1973(b)(a)(1)(F)(i). See also S.Rept. 97-417, *supra*, note 16, at 54, note 184 and accompanying text: "The testimony before the House Subcommittee on Civil and Constitutional Rights in hearings last year and the Senate Subcommittee on the Constitution this year showed that in covered jurisdictions today there still exist many 'grandfathered' voting procedures and methods of election which pre-date 1965 and which tend to discriminatory [*sic*] in the particular circumstances. These include unduly restrictive registration, multi-member and at-large districts with majority vote-runoff requirements, prohibitions on single-shot voting, and others."

Note 184.

⁹⁸ 42 U.S.C. § 1973(b)(a)(1)(F)(i).

⁹⁹ See *supra*, note 26, 2000 Census, Table P8.

¹⁰⁰ City of Los Banos, City Council Meeting Minutes, November 17, 2004 (accepting results of municipal elections showing that candidates are elected on an at-large election plurality basis).

¹⁰¹ <http://www.losbanos.org/council.php> (last visited July 31, 2006).

¹⁰² 42 U.S.C. § 1973(b)(a)(1)(B). See *supra*, note 195.

¹⁰³ 42 U.S.C. § 1973(b)(a)(1)(E). See *supra*, notes 194 and accompanying text.

In summary, this review of Section 5 compliance in California demonstrates that there is a history of discrimination touching upon the right to vote that dates as far back as the late 1960s. Moreover, this record reveals that the effects of this discrimination have a contemporary impact on Latina/o access to the political process. This contemporary impact is exacerbated by another device that has served to exclude Latinas/os from effective electoral participation – an English-only election process. By conducting elections solely in English, Latina/o voters who are not proficient in English are for all practical purposes denied their right to participate in elections. The next section of this letter will focus on how English-only elections are an integral component of this history of discriminations that touches upon the right to vote.

(C). Statewide Voting Discrimination – English-only Elections

English-only elections serve to exclude Latinas/os who are not proficient in the English language from exercising their right to vote. Historically the 1879 California Constitution served as a major impediment to the imposition of a bilingual election process by eliminating the requirement of translating official government documents into Spanish.¹⁰⁴ The adoption of the 1894 literacy test as a pre-requisite for voting also served as another major impediment.¹⁰⁵ The first effort to lay the foundation for a bilingual election process occurred with the *Castro* decision that permitted the use of the literacy test as long as the test was administered in Spanish as well.¹⁰⁶ This first effort culminated in the 1975 amendments to the 1965 Voting Rights Act that required a bilingual election process in political jurisdictions meeting certain requirements. These amendments included Section 203 and Section 4(f)(4) to permit citizens who did not speak or understand the English language to vote in their native language in parts of the country meeting certain language minority population thresholds and English proficiency levels.¹⁰⁷ Presently there are 25 counties in California subject to Section 203 that are required to provide an election process in a language other than English.¹⁰⁸ Of the Section 5 covered jurisdictions there are only three counties subject to the bilingual election requirements.¹⁰⁹

¹⁰⁴ See *supra* note 109 and accompanying text.

¹⁰⁵ See *supra* note 110 and accompanying text.

¹⁰⁶ See *supra* note 112 and accompanying text.

¹⁰⁷ See *supra* note 167.

¹⁰⁸ These counties and the minority language groups include: Alameda (Chinese, Latina/o), Colusa (Latina/o), Contra Costa (Latina/o), Fresno (Latina/o), Imperial (Latina/o, American Indian), Kern (Latina/o), Kings (Latina/o), Los Angeles (Chinese, Filipino, Japanese, Korean, Vietnamese, and Latina/o), Madera (Latina/o), Merced (Latina/o), Monterey (Latina/o), Orange (Chinese, Korean, Vietnamese, Latina/o), Riverside (Latina/o, American Indian), Sacramento (Latina/o), San Benito (Latina/o), San Bernardino (Latina/o), San Diego (Latina/o, Filipino), San Francisco (Chinese, Latina/o), San Joaquin (Latina/o), San Mateo (Chinese, Latina/o), Santa Barbara (Latina/o), Santa Clara (Latina/o, Chinese, Filipino, Vietnamese), Stanislaus (Latina/o), Tulare (Latina/o), and Ventura (Latina/o). Federal Register, Vol. 67, No. 144, Friday, July 26, 2002, at 48871.

¹⁰⁹ These counties and the languages other than English include: Kings (Spanish), Merced (Spanish), and Yuba (Spanish). 28 C.F.R. Part 55, Appendix.

The adoption of these bilingual election provisions are derived from a very basic principle: an eligible voter should not be penalized for his or her lack of English proficiency, especially when this inability to understand the English language reflects the failure of educational institutions to insure that its young students, as well as, adult students, meet a certain minimal level of English proficiency. The congressional testimony in support of the bilingual election provisions has documented the need for the implementation and the continued need for these provisions.¹¹⁰ Yet, there is a segment in our community that is strongly opposed to the extension of these bilingual election provisions.¹¹¹ Such opposition often ignores the importance of having a vibrant body politic that is inclusive and seeks to promote the political integration of heretofore language minority communities. Most significantly, such opposition often ignores the historical exclusion of limited English-proficient Latinas/os from the political process and the fact that these bilingual elections provisions have not been fully enforced.

Recently, the Department of Justice has been enforcing these provisions in California. The Attorney General has filed Section 203 actions against the Cities of Azusa, Paramount, Rosemead, and the Counties of Ventura, San Diego, San Benito, and San Francisco.¹¹² Generally, all of these actions are directed to the failure of the cities and counties to effectively implement the bilingual election provisions in Spanish.¹¹³ The complaints cover topics such as the failure to provide ballots and other election materials in the required language, failure to provide an adequate number of bilingual election personnel on election day, and the woefully inadequate outreach conducted by these Section 203 covered jurisdictions to reach relevant non-English speaking communities. The Consent decrees have provided provisions for the translation of election materials and public notices, for the distribution of translated election materials to language minority communities, for the establishment of a language minority advisory committee that oversees the terms of the consent decree, for the creation of a coordinator position responsible for assuring that the terms of the consent decree are followed, and for periodic oversight and reporting on the efforts of these covered jurisdictions to meet their statutory obligations.¹¹⁴

¹¹⁰ See, e.g., S.Rept. 94-295, 94th Cong. 1st Sess. 24-30, 37-39 (1975); S.Rept. 97-417, *supra*, note 16, 64-66. See also H.Rept. 102-655, 102nd Cong., 2nd Sess. (report accompanying passage of the Voting Rights Language Assistance Act of 1992, P.L. 102-344). The 2006 reauthorization of the Voting Rights Act extended the bilingual election provisions until the year 2032. See *supra* note 2, 109 Pub. L. 246, § 7.

¹¹¹ See, e.g., Letter from 56 Congress Members to Chairman J. Sensenbrenner (Chair. House Judiciary Comm.) Opposing the Renewal of Multilingual Ballot Provisions, February 3, 2006.

¹¹² A complete listing of these cases, along with their complaints and consent decrees are found on the U.S. Department of Justice, Civil Rights Division, Voting Section website. <http://www.usdoj.gov/crt/voting/litigation/recent203.htm#azusa>.

¹¹³ In the City of Rosemead case, the targeted language minority groups were Spanish-speaking, Chinese-speaking, and Vietnamese-speaking voters. In the San Diego case, the targeted language minority groups were Spanish-speaking, and the Filipino community. *Id.*

¹¹⁴ See, e.g., San Benito County and City of Azusa Consent Decrees. *Id.*

Recent testimony before Congress¹¹⁵ and in the California State Legislature highlighted the continued necessity for the bilingual election provisions. Testimony presented before the California State Legislature indicated that about 26% of the Latina/o citizen population is characterized by limited English proficiency.¹¹⁶ Latinas/os who are of limited English-proficiency are not able to effectively participate in the political process because of non-compliance with Section 203. For example, election-day hotlines were insufficiently staffed with bilingual election personnel. In some instances the personnel simply hung up on the person requesting bilingual assistance. In other instances, the callers were placed on hold for a long period of time until bilingual personnel could be located.¹¹⁷ Most significantly, there were reports of an insufficient number or complete absence of bilingual poll workers. Also, in some polling places important election materials were not translated.¹¹⁸

The gravity of this non-compliance with Section 203 can be measured by the litigation that has been filed by the Department of Justice. Cases have been filed in Northern California (Counties of Alameda, San Francisco, and San Benito), the central coast area (Ventura County), and Southern California (San Diego County, and the Cities of Rosemead, Paramount, and Azusa (located within Los Angeles County)). An examination of the complaints and consent decree indicates that there are common issues of non-compliance and the geographic breadth indicates that the issue of Section 203 non-compliance is widespread.

In conclusion, this 203 non-compliance must be viewed as part of the historical pattern of discrimination in California that has resulted in the exclusion of Latinas/os from effectively participating in the electoral process. Coupled with the use of electoral devices such as at-large elections at the local governmental level that have the potential to dilute Latina/o voting strength and the continuing non-compliance with the Section 5 preclearance requirements, Latinas/os continue to experience the effects of this historical legacy. This legacy is clearly evident when elections characterized by racially polarized voting result in low levels of Latina/o political

¹¹⁵ See, e.g., United States Senate, Committee on the Judiciary, *Continuing Need for Section's 203 Provisions For Limited English Proficient Voters*, June 13, 2006 (Testimony of John Trasviña, Interim President and General Counsel, Mexican American Legal Defense and Educational Fund). http://judiciary.senate.gov/testimony.cfm?id=1930&wit_id=5408

¹¹⁶ Rosalind Gold, Senior Director of Policy, Research and Advocacy, National Association of Latino Elected and Appointed Officials (NALEO) Educational Fund, Testimony on the Importance of the Federal Voting Rights Act to California Voters, submitted to the California State Senate Committee on Elections, Reapportionment and Constitutional Amendments, Los Angeles, California, December 5, 2005, at 5.

¹¹⁷ *Id.*, at 6.

¹¹⁸ With respect to language accessibility of educational and informational signage at the polling place, in the Los Angeles Mayoral Run-Off Election of 2005, a third of the polling places did not have a Voter Bill of Rights translated into Spanish or other Asian language. NALEO Educational Fund, *Low-Turnout Precincts in the City of Los Angeles Mayoral Run-Off Election: A Report on the Accessibility of Polling Places*, July 26, 2005, at 10, Table 2. More importantly, half of the sampled polling places did not have any signage relating to information regarding provisional ballots translated into Spanish or Asian. The same level of non-compliance was found in providing hotline numbers. And only about a third of the sampled polling places provided information on voter fraud in Spanish. *Id.*

representation on the governing boards of counties, municipalities, and school districts throughout California. Accordingly, the factor of a history of statewide discrimination touching upon the right to vote has been met. To complete the analysis for this factor the next section of this letter will focus on this history of voting discrimination affecting Latinas/os within the County of Los Angeles. A review of this localized history will reveal that Latinas/os in Los Angeles County have been the brunt of repeated instances of voting discrimination that successfully divided their voting strength in order to limit their opportunity to participate in the political process and elect candidates of their choice.

ii. Los Angeles County Voting Discrimination.

Apart from being the recipients of a statewide history of discrimination touching upon the right to vote, Latinas/os directly experienced the effects of minority vote dilution even before the Supreme Court in the 1973 *White v. Regester* decision¹¹⁹ held for the first time that a legislative redistricting plan diluted minority voting strength. With respect to congressional and legislative districts, this vote dilution began with the 1960 legislative redistrictings. These redistricting had a discriminatory impact on Latina/o voting strength in Los Angeles County. There was a consistent pattern of fragmenting the Latina/o communities in the Los Angeles area.¹²⁰ A slight improvement occurred in the 1970s with the creation of Latina/o legislative districts.¹²¹ As a

¹¹⁹ See *supra* note 118.

¹²⁰ For the 1961 redistricting the Los Angeles area divided into six assembly districts. Richard Santillan, ed., *The Hispanic Community and Redistricting, Volume I, The Rose Institute of State and local Government, Claremont McKenna College* at 43 (1981) (necessity to create Latina/o districts). See also T. Anthony Quinn, *Redrawing the Lines: 1961, A Study of the Redistricting Process in California, The Rose Institute of State and Local Government, Claremont McKenna College* at 10 (not dated) (describes fragmentation of Latina/o community by Democratic Party). Subsequently the 1961 State Senate plan was successfully challenged in both state and federal courts on the grounds that the plans violated the one person one vote principle. *Yorty v. Anderson*, 60 Cal.2d 312, 33 Cal.Rptr. 97, 384 P.2d 417 (1963); *Silver v. Jordan*, 241 F.Supp. 576 (S.D. Cal. 1964), *affirmed*, 381 U.S. 415 (1965). However, since the State Legislature did not adopt a new Senate redistricting plan, another action was filed. *Silver v. Brown*, 46 Cal.Rptr. 308, 405 P.2d 132 (1965) (Cal. Supreme Court, in bank). A temporary plan for both State Assembly and Senate Districts was to be implemented in time for the 1966 elections if the State Legislature did not act. The State Legislature did act in 1965. The 1965 redistricting plan continued the fragmentation of the Latina/o community in the Los Angeles area. *Supra* Santillan, *Redistricting, Volume I*, at 46. This plan in turn was also challenged for technical deficiencies and ultimately a plan was declared constitutional. *Silver v. Brown*, 48 Cal. Rptr. 609, 409 P.2d 689 (1966) (Cal. Supreme Ct., in bank). With respect to congressional redistricting, the 1961 plan was successfully challenged in 1965. *Silver v. Brown*, 46 Cal.Rptr. 531, 405 P.2d 571 (1965). However due to an impending election schedule, the State Supreme Court permitted the use of the plan in the 1966 elections. A request by the State Legislature to delay the development of a new plan was denied. *Silver v. Reagan*, 62 Cal.Rptr. 424, 432 P.2d 26 (1967) (Cal. Supreme Ct., in bank). Subsequently the legislatively crafted 1967 congressional redistricting was approved by the State Supreme Court. *Silver v. Reagan*, 64 Cal.Rptr. 325, 434 P.2d 621 (1967) (State Supreme Ct., in bank). As with the state legislative redistricting plans, the 1967 congressional redistricting plan continued the fragmentation of the Los Angeles Latina/o community. Santillan, *Redistricting I*, at p. 46.

¹²¹ In 1971, the California legislature enacted redistricting plans for congressional, state senate, and assembly districts. These plans were vetoed by the Governor. In the subsequent litigation, the State Supreme Court imposed a temporary plan for the 1972 elections. See *supra* note 219, Santillan, *Redistricting, Volume I*, at 62-63. The State Legislature and the Governor were not able to reach an agreement regarding the formulation of redistricting plans.

result of increases in the Latina/o population in the 1980s, Latinas/os increased the number of congressional seats from one to three where Latinas/os had significant population concentrations and maintained their predominantly Latina/o assembly seats. However, fragmentation of the Latina/o community in the Los Angeles area continued with respect to the State Senate districts.¹²² A dramatic improvement occurred with the 1990 redistrictings. As with the 1970s redistrictings a Special Masters Panel was appointed to draw congressional and state legislative districts due to a legislative impasse. The Special Masters plan resulted in 10 or 12.5% out of 80 assembly districts, 4 or 10% out of 40 senate districts, and 7 or 13.5% out of 52 congressional districts which contained over a 50% Latina/o population concentration.¹²³ Although these were notable improvements, when compared to the 25.8% Latina/o population for California in the 1990 Census,¹²⁴ there was still dilution of Latina/o voting strength.¹²⁵ These improvements were realized in the 2000 redistrictings where Latinas/os comprised 32.4% of the State's population.¹²⁶ The 2001 redistrictings resulted in 17 or 21.3% out of 80 assembly districts,¹²⁷ 8 or 20% out of 40 senate districts,¹²⁸ and 10 or 19.2% out of 52 congressional districts¹²⁹ which contained over a

Id., at 64-68. The State Supreme Court subsequently appointed a panel of Special Masters which in turn drafted redistricting plans that were approved by the State Supreme Court. *Legislature of State of California v. Reinecke*, 110 Cal.Rptr. 718, 516 P.2d 6 (1973) (Cal. Supreme Ct., in bank). The Special Master's plan created Latina/o districts for the assembly and the state senate, which was an improvement over the redistrictings of the 1960s.

¹²² During the 1980s, an extensive grass roots effort was launched by Californios for Fair Representation. Their lobbying efforts resulted in positive gains for the Latina/o community. The 1981 legislatively enacted redistricting plans incorporated some of their recommendations. The redistricting statutes were ultimately the subject of a referendum. *Assembly of State of Cal., v. Deukmejian*, 180 Cal.Rptr. 297, 639 P.2d 939 (1982) (Cal. Supreme Ct., in bank). The State Supreme Court rejected a challenge to the validity of the referendum. The State Supreme Court declared that the referendum could proceed; however the upcoming 1982 party primary and general elections would be based upon the State Legislature's 1981 plans. *Id.* The statutes were rejected by the voters and the State Legislature subsequently enacted new redistricting plans in 1982. *Legislature of the State of Cal., v. Deukmejian*, 194 Cal.Rptr. 781 (Cal. Supreme Ct. 1983). The state senate and assembly redistricting plans were enacted as urgency statutes and thus were not subject to the referendum procedures. The congressional redistricting plan was not challenged by way of a referendum. Instead an initiative sought to replace all three redistricting statutes. The State Supreme Court ruled that such an Initiative was not permitted by the State Constitution. *Id.* Subsequently the congressional redistricting plan was unsuccessfully challenged as a partisan gerrymander. *Badham v. March Fong Eu*, 694 F.Supp. 664 (N.D. Cal. 1988), *judgment affirmed*, 488 U.S. 1024 (1989). See also Morgan Kousser, *Reapportionment Wars: Party, Race, and Redistricting in California, 1971-1992*, in Bernard Grofman, ed., *Race and Redistricting in the 1990s* (New York: Agathon Press 1998).

¹²³ *Wilson v. Eu*, 4 Cal.Rptr.2d 379, 823 P.2d 545 (Cal. 1992) (Appendix Two).

¹²⁴ See *supra* note 152, 1990 Census, Tables P001 & P008.

¹²⁵ Minority organizations filed objections to the plan because of the dilution of minority voting strength in certain areas of the state. See *supra Wilson*, note 222, at 554-556.

¹²⁶ See *supra* note 110, 2000 Census.

¹²⁷ California Assembly Website: <http://www.assembly.ca.gov/committee/c7/asmfinal/newtextdocument.html> (last visited July 31, 2006).

¹²⁸ California State Senate Website: <http://www.sen.ca.gov/ftp/SEN/senplan/senate.htm> (last visited July 31, 2006).

¹²⁹ California State Senate Website: <http://www.sen.ca.gov/ftp/SEN/cngplan/newtextdocument.htm>.

50% Latina/o population concentration. As with previous redistricting plans, there was a court challenge.¹³⁰ However the challenge was not successful.

This fragmentation of Latina/o voting strength and the resulting dilution of their vote was also evident in the County's supervisor redistrictings. The 1959 redistricting, unusual for its timing, was precipitated by the candidacy of Edward Roybal, a Latina/o candidate and future member of the Los Angeles City Council and Congress.¹³¹ The Anglo candidate, Ernest Debs, won by about 5% percent of the votes cast, after four recounts. Upon assuming office, Supervisor Debs and District 4 Supervisor Burton Chace agreed to an exchange that resulted in the transfer of between 50,000 and 100,000 voters. Such a transfer resulted in a decrease of Latina/o voters in Supervisor District 3 by avoiding Latina/o areas of East Los Angeles that were supportive of candidate Roybal.¹³²

A similar dilution of Latina/o voting strength occurred with the 1963 county supervisor redistricting. The 1960 Census revealed a population imbalance and revealed with District 3 was under-populated. Instead of adding areas from the immediately adjacent San Gabriel Valley that were growing in Latina/o population concentrations, predominantly Anglo areas of the San Fernando Valley and the western part of Los Angeles were added. This decision to avoid the heavily concentrated Latina/o areas of East Los Angeles resulted in a continued dilution of Latina/o voting strength.¹³³ This pattern of fragmenting Latina/o voting strength continued with the 1965 redistricting that was conducted pursuant to a decision by the California State Supreme Court limiting population deviations between supervisor districts.¹³⁴ The 1965 redistricting again minimized the impact of adding Latina/o voters to Supervisor District 3, even though Supervisor Warren Dorn's representative on a redistricting committee recommended subtracting heavily concentrated Latina/o communities of the San Gabriel Valley from Supervisor District 1 into Supervisor District 3. Acceptance of such a transfer would have increased the voting strength of Latinas/os in Supervisor District 3. To avoid such an increase, a complicated two-step exchange was undertaken in order to minimize the impact of adding more Latinas/os into Supervisor District 3.¹³⁵ Also, the 1971 redistricting pursued the same objective of fragmenting Latina/o voting strength in East Los Angeles and the San Gabriel Valley.¹³⁶ As to these series of county supervisor redistrictings, the Court concluded:

“The Court finds that the Board has redrawn the supervisorial boundaries over the period 1959-1971, at least in part, to avoid enhancing Hispanic voting strength in District 3, the district that has historically had

¹³⁰ See *Cano v. Davis*, 211 F.Supp.2d 1208 (Three Judge Court) (C.D.Cal. 2002), *judgment affirmed*, 537 U.S. 1100 (2003).

¹³¹ See *supra* note 7, *Garza*, 756 F.Supp. at 1309.

¹³² *Id.*, at 1309-1310.

¹³³ *Id.*, at 1310.

¹³⁴ *Id.*

¹³⁵ *Id.*, at 1310-1311.

¹³⁶ *Id.*, at 1311-1312.

the highest proportion of Hispanics and to make it less likely that a viable, well financed Hispanic opponent would seek office in that district. This finding is based on both direct and circumstantial evidence, including the finding that, since the defeat of Edward Roybal in 1959, no well-financed Hispanic or Spanish-surname candidate has run for election in District 3.”¹³⁷

Finally, as to the 1981 county supervisor redistricting, the Court in *Garza* held that the intent of this redistricting was to continue splitting the Latina/o core “almost in half,” in order to preserve the incumbencies of the five Anglo supervisors by minimizing Latina/o voting strength and “further impair the ability of Hispanics to gain representation on the Board.”¹³⁸ Only after the successful outcome of the *Garza* litigation did this decades-long division of East Los Angeles and the San Gabriel Valley and resulting dilution of Latina/o voting strength come to an end.¹³⁹

Apart from this history of discrimination that touches upon the right to vote involving the redistricting of election districts at the congressional, state senate, legislative, and county supervisor levels in Los Angeles County, there is a similar history involving another device that has diluted Latina/o voting strength: at-large methods of election. Although prior litigation in federal and state courts has been unsuccessful in dismantling at-large election systems in the

¹³⁷ *Id.*, at 1312-1313.

¹³⁸ *Id.*, at 1317-1318.

¹³⁹ Other voting rights cases are part of the legacy of this history of discrimination affecting the right to vote. As previously discussed, the *Castro* case involved a challenge to the application of an English-only literacy test. This challenge arose out of Los Angeles County. See *supra* note 112 and accompanying text. In *Calderon v. City of Los Angeles*, 93 Cal.Rptr 361 (Cal. Supreme Court), there was a challenge initiated based upon a violation of the one-person one-vote principle against the City of Los Angeles City Council Districts. The Districts had been redistricted based upon a voter registration base and not a population base. The State Supreme Court noted that such a redistricting could have discriminated against the Latina/o and African American communities:

“Our preference for a population, rather than a registered voter, standard is rooted in another important consideration. The instant complaint alleges that the present voter-based system results in severe under-representation of those districts with heavy concentrations of blacks and Mexican-Americans. . . . [opinion then presents population and voter registration comparisons among minority and Anglo council districts demonstrating that Anglo districts with significantly less population elect a single city council member while the minority districts with significantly more population elect just one city council member]

Although such a discriminatory effect would have to be proved at trial, the United States Supreme Court has asserted that an otherwise acceptable apportionment plan may fail to pass constitutional muster if designedly or otherwise, it operates to minimize or cancel out the voting strength of racial or political elements of the voting population. . . . Where, for any reason, a nonpopulation-based scheme tends sharply to reduce the representation of such groups, it must be regarded as constitutionally suspect.”

Id., 481 P.2d at 494-495 (internal citations and quotation marks omitted). There was also a successful redistricting challenge filed by the Department of Justice against the Los Angeles City Council for maintaining a redistricting plan that diluted Latina/o voting strength in violation of Section 2 of the Voting Rights Act, 42 U.S.C. § 1973. *U.S., Carrillo v. City of Los Angeles*, Civil Act. No. CV-85-7739 JMI (JRX) (C.D.Cal. 1985).

County,¹⁴⁰ the continuing dilutive effects of these methods of election is evident in the absence of Latina/o representation on cities and school districts containing significant Latina/o populations.

The following table¹⁴¹ for cities located within Los Angeles County is illustrative. Out of the 88 municipalities in Los Angeles County, 22 cities have significant Latina/o populations and no Latina/o representation on the city council. This data is very revealing. First, with the exception of two cities,¹⁴² elections are conducted on an at-large election basis. As previously, discussed when an at-large method of election is coupled with racially polarized voting, the candidates preferred by the minority community are usually defeated. In the discussion regarding the *Gingles* preconditions, the studies presented in support of a finding of racially polarized voting concluded that elections throughout Los Angeles County were racially polarized. Second, with the exceptions of a few cities,¹⁴³ these municipal elections are conducted at a time when low voter participation occurs. The months of March and April are not months that coincide with statewide or county-wide elections. This problem of low voter-turnout is further compounded by conducting in elections in odd numbered years when issues and public offices major importance are not present.¹⁴⁴

Table 3
Cities in Los Angeles County Containing 10% or More Latina/o Population and No Latina/o Representation on City Council

¹⁴⁰ See *supra* note 120, *Aranda* (unsuccessful at-large election challenge filed in federal court against the City of San Fernando). See *Carrillo v. Whittier Union High School Dist.*, 154 Cal. Rptr. 75 (Cal. State Supreme Court “ordered that the opinion be not officially published.”) (unsuccessful at-large election challenge filed in state court against the Whittier Union High School District).

¹⁴¹ This municipality table was prepared from several sources: <http://lacounty.info/88%20Cities%20in%20Los%20Angeles%20County.pdf> (list of cities in Los Angeles County); all election information is derived from the League of Women Voters Smart Voter website and links to city websites (city websites not listed), unless otherwise noted; election returns were reviewed to determine the date of the election and whether elections are conducted on an at-large or district basis. <http://www.smartvoter.org/ca/la/>; list of cities conducting district elections http://www.cacities.org/resource_files/23513.DISTELEC.doc (the City of Coachella is erroneously listed as conducting district elections) (League of California Cities website); Bellflower <http://www.bellflower.org/home/index.asp?page=49>; South Pasadena - <http://www.ci.south-pasadena.ca.us/government/citycouncil.html>; Cerritos - <http://www.ci.cerritos.ca.us/>.

¹⁴² Bradbury and Redondo Beach City.

¹⁴³ Palmdale, Santa Monica, Torrance, and Arcadia.

¹⁴⁴ The following cities conduct their municipal elections in odd numbered years: Compton, Bellflower, Palmdale, La Mirada, Signal Hill, San Dimas, Temple City, South Pasadena, La Habra Heights, Redondo Beach City, and Cerritos.

| | Name of City | Hispanic or Latino (of any race) % | Total Number of Latinas/os on City Council | At-large | District | Date of Election - Month | Date of Election Even or Odd Year - |
|----|---------------|------------------------------------|--|----------|----------|--------------------------|-------------------------------------|
| 1 | Compton | 56.8 | 0 | 1 | | April/June | O |
| 2 | Whittier | 55.9 | 0 | 1 | | April | E |
| 3 | Lawndale | 52.1 | 0 | 1 | | April | E |
| 4 | Bellflower | 43.2 | 0 | 1 | | March | O |
| 5 | Palmdale | 37.7 | 0 | 1 | | Nov. | O |
| 6 | La Mirada | 33.5 | 0 | 1 | | March | O |
| 7 | Signal Hill | 29.0 | 0 | 1 | | March | O |
| 8 | Lancaster | 24.1 | 0 | 1 | | April | E |
| 9 | Culver City | 23.7 | 0 | 1 | | April | E |
| 10 | San Dimas | 23.3 | 0 | 1 | | March | O |
| 11 | Glendora | 21.7 | 0 | 1 | | March | O |
| 12 | Santa Clarita | 20.5 | 0 | 1 | | April | E |
| 13 | Temple City | 20.5 | 0 | 1 | | March | O |
| 14 | S. Pasadena | 16.1 | 0 | 1 | | March | O |
| 15 | Bradbury | 13.9 | 0 | | 1 | April | E |
| 16 | La Habra Hts | 13.6 | 0 | 1 | | March | O |
| 17 | Redondo Bch | 13.5 | 0 | | 1 | March/May | O |
| 18 | Santa Monica | 13.4 | 0 | 1 | | Nov. | E |
| 19 | Torrance | 12.8 | 0 | 1 | | June | E |
| 20 | El Segundo | 11.0 | 0 | 1 | | April | E |
| 21 | Arcadia | 10.6 | 0 | 1 | | June | E |
| 22 | Cerritos | 10.4 | 0 | 1 | | March | O |

The same dilutive feature and impact is found in school districts located within Los Angeles County, as demonstrated by the following table.¹⁴⁵

¹⁴⁵ This school district table was prepared from several sources. The total number of school districts in Los Angeles County was derived from two sources: 1) Los Angeles County Office of Education, http://www.lacoe.edu/orgs/1/index.cfm?ModuleId=14&search_by=yes&search_orgid=*%&Category=32&keyword= (last visited July 30, 2006); 2) League of Women Voters Smart Voter website (listed school districts that do not appear on Los Angeles County Office of Education website), <http://www.smartvoter.org/ca/la/> (last visited July 30, 2006). The school population information was derived from one source: Institute of Education Sciences, United States Department of Education, National Center for Education Statistics, School District Demographics Systems

| Table 4 School Districts in Los Angeles County Containing 10% or More Latina/o Population and No Latina/o Representation on Governing Board | | | | | | | |
|--|--------------------------------|----------------------------|---|----------------------|--------------|---------------------------------------|--|
| | School District | % Lat. Pop. | No. of Lat. Bd. Mem. | At- Large | Dist. | Date of Elect. - Month | Date of Elect. Even or Odd Year |
| 1 | Downey Unif. S. D. | 57.7 | 0 | | 1 | Nov. | O |
| 2 | Norwalk LaMirada Unif. S. D. | 53.7 | 0 | 1 | | Nov. | O |
| 3 | West Covina Unif. S. D. | 50.2 | 0 | 1 | | Nov. | O |
| 4 | Covina Valley Unif. S. D. | 44.9 | 0 | 1 | | Nov. | O |
| 5 | Fullerton Joint Un. S. D. | 36.0 | 0 | 1 | | Nov. | E |
| 6 | Monrovia Unif. S. D. | 35.0 | 0 | 1 | | Nov. | O |
| 7 | Long Beach Unif. S. D. | 34.6 | 0 | | 1 | Apr./June | E |
| 8 | Keppel Un. Ele. S. D. | 34.1 | 0 | 1 | | Nov. | O |
| 9 | Castaic Un. S. D. | 32.8 | 0 | 1 | | Nov. | O |
| 10 | Lowell Jt. S. D. | 31.3 | 0 | 1 | | Nov. | E |
| 11 | Antelope Val. Un. Jt. H. S. D. | 29.8 | 0 | 1 | | Nov. | O |
| 12 | Eastside Un. S. D. | 26.3 | 0 | 1 | | Nov. | O |
| 13 | Gorman Ele. S. D. | 26.3 | 0 | 1 | | Nov. | O |
| 14 | Burbank Unif. S. D. | 24.9 | 0 | 1 | | Feb./Apr. | O |
| 15 | Lancaster S. D. | 24.3 | 0 | 1 | | Nov. | O |
| 16 | Bonita Unif. S. D. | 23.8 | 0 | 1 | | Nov. | O |
| 17 | Culver City Unif. S. D. | 23.7 | 0 | 1 | | Nov. | O |

<http://nces.ed.gov/surveys/sdds/> (last visited July 30, 2006). The election date and method of election were derived from a review of election returns available from smartvoter.org and telephone calls where noted. Information on the ethnicity of the governing school boards was prepared by visiting the links provided by the Office of Education to each of the individual school districts. When such links were not available, the school district website was visited. If no website was available, the information was secured by telephone calls.

Apart from Latina/o political under-representation on city councils and school districts, Latinas/os experience a similar under-representation in the State's judiciary. For example, out of about 430 Superior Court Judges in Los Angeles County, it is estimated that about 10% are Latina/o. Alan Clayton, Director of EEO, LACCEA (independent research on file with Alan Clayton). State Senate Constitutional Amendment No. 16 seeks to address this issue of under-representation by mandating the creation of separate election districts for the Los Angeles County Superior Court. These election districts would consist of multi-member districts where judges would seek election to specific seats. http://info.sen.ca.gov/cgi-bin/postquery?bill_number=sca_16&sess=CUR&house=B&site=sen.

| Table 4 School Districts in Los Angeles County Containing 10% or More Latina/o Population and No Latina/o Representation on Governing Board | | | | | | | |
|--|--------------------------------|----------------------------|---|----------------------|--------------|---------------------------------------|--|
| | School District | % Lat. Pop. | No. of Lat. Bd. Mem. | At- Large | Dist. | Date of Elect. - Month | Date of Elect. Even or Odd Year |
| 18 | Newhall S. D. | 23.1 | 0 | 1 | | Nov. | O |
| 19 | Sulphur Springs S. D. | 21.0 | 0 | 1 | | Nov. | O |
| 20 | Temple City Unif. S. D. | 18.9 | 0 | 1 | | Nov. | O |
| 21 | Claremont Unif. S. D. | 16.8 | 0 | 1 | | Nov. | O |
| 22 | South Pasadena Unif. S. D. | 16.1 | 0 | 1 | | Nov. | O |
| 23 | Hughes Eliza. Lakes Ele. S. D. | 14.1 | 0 | 1 | | Nov. | O |
| 24 | Redondo Beach Unif. S. D. | 13.5 | 0 | 1 | | March | O |
| 25 | Torrance Unif. S. D. | 12.8 | 0 | 1 | | Nov. | O |
| 26 | Acton-Agua Dulce Unif. S. D. | 11.1 | 0 | 1 | | Nov. | O |
| 27 | El Segundo Unif. S. D. | 11.0 | 0 | 1 | | Nov. | O |
| Abbreviations: Un. – Union; S. – School; D. – District; Unif. – Unified; Ele. – Elementary; Jt. – Joint; Lat. – Latina/o; Pop. – population; No. – Number; Bd. – Board; Mem. – Member; Dist. – District; Elect. - Election | | | | | | | |

Out of approximately 81 school districts in Los Angeles County, 27 have significant Latina/o populations and yet no Latina/o representation on school governing boards. As with the city data, with the exception of two school districts,¹⁴⁶ elections are conducted on an at-large election basis. Also with the exceptions of three school districts,¹⁴⁷ elections for the remaining school districts are conducted in odd numbered years, when there is usually lower voter turnout.

The city and school district tables demonstrate that Latina/os continue to experience the effects of a history of discrimination that has touched upon the right to vote. When governmental entities contain significant Latina/o populations, the complete absence of Latina/o representation on the jurisdiction’s governing board suggests that the election structure coupled with the timing of the election may have a dilutive effect on Latina/o voting strength. Such a potential dilutive effect would be the consequence of this history of voting discrimination that has directly affected Los Angeles County. Starting with the gerrymandering of congressional and legislative districts in the 1960s, the discriminatory county supervisor redistricting of the late

¹⁴⁶ Downey Unified School District and Long Beach Unified School District.

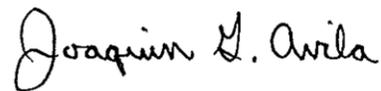
¹⁴⁷ Fullerton Joint Union School District, Long Beach Unified School District, and Lowell Joint School District.

1950s, the use of English literacy tests that prevented limited English-proficiency Latinas/os from participating in the electoral process, to the past and current use of at-large methods of election in municipalities and school districts, this history of voting discrimination provides context for evaluating the continuing discriminatory effects of a supervisor districting plan manages to over-concentrate and fragment Latina/o voting strength at the same time. Moreover, when this documented history of voting discrimination in Los Angeles County is viewed in conjunction with a similar history that occurred statewide, there can be no question that such discrimination was pervasive, long-standing, and pernicious in its effect on diluting Latina/o voting strength. Based upon this extensive discussion, the factor of a history of discrimination that touches upon the right to vote has been met.

Conclusion

Based upon this extensive history of voting discrimination and the issue of minority electability, the failure to create a third Senate District that contains a 38.6% Latino CVAP may result in a violation of the intent evidentiary standard of both Section 5 and Section 2 of the federal Voting Rights Act.

Sincerely,

A handwritten signature in cursive script that reads "Joaquin G. Avila".

Joaquin G. Avila



Sierra Club Redistricting Public Comment, June 28, 2011

As the largest grassroots environmental group, the Sierra Club has over 300,000 members in California. Sierra Club California is focused on protecting environmental communities of interest, such as parks, air basins, watersheds, forests, mountains, coasts, rivers, transportation, ecosystems and habitats.

In particular, we note that certain communities of interest are protected by the Voting Rights Act (the "VRA"). The VRA is not only binding federal legislation, but it is the Commission's second highest priority, as mandated by Proposition 11 in Article XXI of the California Constitution, Section 2, Subsection (d)(2). The Sierra Club is fully supportive of that mandate. The communities that are protected by the VRA are often the same communities that suffer the most from environmental degradation, including the effects of poor air quality and climate change.

We would also like to highlight a key guiding principle: environmental communities of interest should be kept together with their stakeholders. In some cases, such as rural coastal areas, that could mean keeping those sections of the coastline together based on common interests and coverage of most users, while in others, such as urban coastal areas, segregating the coast from urban users cuts off a major constituency that should have a voice in how the resource is managed.

Our comments below are grouped by region, and incorporate the public comment submitted by the Sierra Club on June 27, 2011, regarding the South San Francisco Bay and Monterey Bay regions.

SOUTHERN CALIFORNIA

1. Verdugo Wash watershed: the Verdugo Wash watershed, including the Cities of Glendale and La Canada Flintridge, and the unincorporated community of La Crescenta, share a number of interests in common: transportation (Route 2 and I-210 Freeways), wildfire linkage, and their connection to the San Gabriel Mountains. It is even more important that these communities of interest should be grouped together for the Assembly and Senate districts than for the Congressional seat: for example, the Angeles Crest Highway is a state highway that provides the only transportation route out of this area to the northeast. Following the catastrophic wildfire in 2009, it took the state nearly two years to repair and reopen this critical public safety link. Common representation is essential to protecting not just the habitat, but also access to the San Gabriel Mountains. This could be accomplished by a population swap of La Crescenta and La Canada Flintridge with portions of eastern Pasadena between the Burbank / Glendale and San Gabriel Mountains Foothills Assembly Districts.
2. San Gabriel Mountains: as with the coast, in general the Sierra Club believes that natural areas should be grouped with the communities of interest where most of their users reside. The San Gabriel Mountains are primarily in the Angeles National Forest and San Bernardino

National Forest. The users primarily come from the communities to the south, so the mountains should be kept in the same districts as those communities. The following modifications would address our concerns:

- (a) Prevent the isolation of the Angeles National Forest into a single Assembly, Senate, or Congressional seat, removing the majority of stakeholders of this environment community of interest from these districts;
 - (b) At the Assembly level, keep Glendale, La Canada Flintridge, and La Crescenta together, thus also keeping the western and eastern halves of Pasadena connected with the mountains, and Altadena with eastern Pasadena, with which it shares both the foothills and demographics in common;
 - (c) Place the Tujunga Canyons with the East San Fernando Valley districts, where its stakeholders reside;
 - (d) Join at least Azusa Canyon (the portion of the San Gabriel River at the entrance to the mountains) with the Latino opportunity Congressional District in the east San Gabriel Valley / Covina area, due to the mining impacts on air pollution in that vicinity;
 - (e) Extend the San Gabriel Mountains Foothills Congressional District to the eastern boundary of the Angeles National Forest, which is a little further east of the LA County line, north of the City of Upland;
 - (f) Similarly, end the San Gabriel Mountains Foothills Assembly and Senate Districts at the eastern border of the Angeles National Forest, north of Upland, and not extend into Rancho Cucamonga, which shares no border with the Angeles National Forest;
 - (g) Connect the Ontario Congressional District with the small portion of the San Bernardino National Forest immediately to its north; this should not include the Wrightwood area, which would not be a logical pairing of COIs, given its separate population base.
3. Griffith Park: neighborhoods and cities surrounding Griffith Park, a large mountainous urban ecosystem, should be kept together in the state legislative districts; they are a community of interest not only by virtue of the park itself, but also because of the transportation networks that surround the mountain on which the nation's largest urban park is located, including Burbank, Glendale, and Los Angeles neighborhoods like Los Feliz. This could be accomplished by swapping South Pasadena and Los Angeles neighborhoods like Los Feliz between the Burbank / Glendale and East Los Angeles Assembly Districts.
 4. Santa Monica Mountains: keep the Santa Monica Mountains National Recreation Area and its canyons and watersheds intact in the Assembly and Senate districts. The Commission's Assembly districts split these, with Malibu separated from the canyons above it, while the

Senate nesting connects the Santa Susana Mountains and Santa Monica Mountains, two different ecosystems that are not even adjacent; only a thin sliver of land in the San Fernando Valley keeps the two areas of this Senate district contiguous. The Santa Clarita Assembly District should be nested with the Antelope Valley, with which it shares more in common ecologically than the coastal mountains to the south.

5. Santa Monica Bay: the coast should be a significant part of a few districts, so that these areas can have adequate opportunities for representation, but having all of the coast in one district actually cuts off many users from their beaches in an urban area. The sandy beaches of the South Bay, with their high levels of urban disturbance, should not be connected with the isolated rocky cliffs of Palos Verdes; they are two different ecosystems with distinct needs in terms of use and protection. Beaches in California are state property from the point of submersion to the mean high tide line. By creating South Bay / Palos Verdes Assembly and Congressional Districts, the Commission packed nearby minority communities into adjoining districts.
6. Palos Verdes Peninsula and Harbor: both in terms of port air pollution and geologically (hills, earthquake faultlines, rocky coasts), San Pedro and the Palos Verdes Peninsula are connected, as are San Pedro and the rest of the Harbor. We support grouping communities impacted by the port and associated truck traffic on the I-110 and I-710 Freeways as a matter of environmental justice.
7. South Pasadena: the proposed I-710 Freeway extension is one of our top concerns, which would decimate City of South Pasadena, the southern portion of the City of Pasadena, and the predominantly Latino neighborhood of El Sereno in Los Angeles. South Pasadena must be with either El Sereno and/or Pasadena. Alhambra is distinct demographically and ethnically, having more in common with Monterey Park, San Gabriel, and Rosemead, sharing the I-10 Freeway.
8. Chino Hills State Park: both sides of the state park (Counties of Orange and San Bernardino) should be together. This could also improve the Latino CVAP of the Ontario districts. It would make sense to group Chino Hills in the Asian opportunity districts, as in the Commission's East San Gabriel Valley / Diamond Bar Congressional District, if these are drawn to group the Puente Hills / Chino Hills wildlife corridor together, an area of very limited open space that is facing acute, immediate pressures for development. This district shares the Route 60 Freeway and Alameda Corridor East transportation communities of interest.
9. I-5 Orange County corridor: given the environmental impacts of trucking and commuting along the I-5 Freeway in north Orange County, grouping Santa Ana together with central Anaheim and having a separate district from Garden Grove to Cerritos would make sense, rather than splitting both the Latino and Asian communities and putting the larger portions of each in the same Senate and Congressional districts, as the Commission did.

10. Salton Sea watershed: as one of the most polluted inland water bodies in the country, and one used by several threatened and endangered species, the Salton Sea needs dedicated attention. Currently there is a Latino opportunity Assembly district there, and MALDEF's plan would both protect this and create a Latino opportunity Senate district centered on the Salton Sea, whereas the Commission split the Salton Sea at the Riverside/Imperial boundary for both.

In terms of comprehensive maps that address a variety of criteria, thus far the Assembly and Senate maps presented by MALDEF on May 26, 2011, work best for environmental communities of interest in Southern California, particularly with respect to the Santa Monica Mountains, South Pasadena, the I-5 Orange County corridor, and the Salton Sea watershed. Although there are several important items above that are not addressed by these maps, overall, that plan keeps more of these environmental communities of interest together than any other plan submitted thus far, including that of the Commission, and thus could be a starting point for revisions. This is not an endorsement of the MALDEF plan per se, nor of any subsequent plans that may be submitted.

CENTRAL VALLEY

Sacramento River Delta and Mokelumne River watershed: given the central role that both watershed protection for endangered species and water supply for users statewide, maintaining the integrity of the Sacramento River Delta is of great concern as an environmental community of interest. The Sierra Club believes that the Commission has taken the correct action by grouping the Delta islands together, but as described by local stakeholders in Lodi and Galt and below, the communities in the lower Mokelumne River watershed should be kept together with the foothill communities upstream, rather than being grouped with the Delta. The solution for this and several other issues below also has the additional benefit of improving the coalition CVAP under VRA Section 5 for the Assembly district in which Yuba County would be placed.

Population Exchanges in Eight Assembly Districts

The following solution fixes several problems with the Commission's Central Valley and mountain Assembly Districts. The problems are these:

- (a) Mt. Shasta and Redding belong with Lassen and Modoc Counties.
- (b) The Butte / Tahoe district needs more than just a sliver of the Tahoe basin.
- (c) The Foothills District is too long to traverse easily by auto.
- (d) The small communities in the Galt and Lodi area are more similar to the foothills than Contra Costa.
- (e) The Stockton district should keep the waterways in the County that are important to the port.

(f) Yuba County, a VRA Section 5 county, can and should be placed in a district with a larger coalition CVAP. This provides Latinos with greater opportunities to form coalitions in the new district.

(g) Yolo County, as an area that shares similar farming practices and migratory bird issues as the Delta, should be kept together with the Delta Assembly District, except for the City of West Sacramento, which is immediately adjacent to the City of Sacramento and is fully integrated into the Sacramento urban area.

This solution to these seven problems also brings almost all of these districts closer to the ideal population. The solution exchanges population in about eight of the Commissions' first draft Assembly districts.

Essentially, Yuba County and portions of Sutter County go into the WSAC Assembly District, the ECC Delta Assembly District reunites Davis with the rest of Yolo County from WSAC, the Foothills Assembly District gains the Galt/Lodi area from ECC, the Tahoe/Butte (MTCAP) District reunites eastern Placer and northeastern El Dorado Counties from Foothills Assembly District, and finally the MTCAP District gives territory from four northern counties to the Mt. Shasta/Redding District that lost Yuba County. The north counties are more compact, more of the American River watershed areas of Placer and El Dorado Counties are included in the Tahoe district, and the Foothills district also becomes more compact. Besides Stockton, the other districts in San Joaquin, Stanislaus, and Merced are also somewhat affected and improved. The statistics on the following pages, also from Maptitude, show the individual districts.

1)Yuba County's VRA needs are better served by being placed in a district with a higher total coalition CVAP.

As a VRA Section 5 County, Yuba County is better off being in the WSAC Assembly District: due to the higher overall minority CVAP, there would be a greater chance of forming coalitions in order to be represented.

2)The Redding / Mt. Shasta district (which the Commission named "YUBA") is improved by adding territory from four north counties, which are constantly ignored when split from each other and associated with counties further south.

Even though this map is still labeled "Yuba," that county has been removed. The district could be called Northeast California or "Jefferson," the name some secessionists there want to call their separate state. This underscores what many in those counties believe – they are ignored by Sacramento or their representatives who in the past have lived in distant suburbs. This more compact district would give better representation.

Modoc, Lassen and the rest of Siskiyou are included. In addition, the more rural part of Butte County west of Highway 99 is included. This area of Butte is more like its neighbors to the west in Glenn and Tehama Counties. The district is more compact, the watershed is that of the Sacramento

River. Transportation within the district is improved. People in Modoc have less trouble getting to a central place like Redding versus going to South Lake Tahoe or Sacramento.

3) The MTCAP district is improved by making it the Tahoe / Butte district and adding more national forest land around the Tahoe basin.

Most of the national forest land around the Tahoe basin is very low density. Alpine County, the least populated County in California with barely more than a thousand people, belongs with the Tahoe basin as does most of the snow country and national forest around the basin, forming a common watershed community of interest.

The three-way split of El Dorado County in the Commission's plan is good, but the split should run just north of Highway 50 and south of the south fork of the American River and Pollock Pines. El Dorado Hills and Cameron Park are very well placed in the ELDO district by the Commission. Most of the other communities on Highway 50 in El Dorado County are kept in the foothills district. Placer County need only be split in two rather than three.

| Proposed Changed District | Commission's First Draft | |
|---------------------------|--------------------------|--------|
| District Name | Tahoe (MTCAP) | MTCAP |
| Population | 465703 | 467506 |
| Deviation Percent | 0.01% | 0.39% |
| LCVAP Percent | 6.70% | 7.75% |
| BCVAP Percent | 1.14% | 2.07% |
| ACVAP Percent | 2.30% | 2.17% |

4) The Foothills district is improved by making it more compact.

The district loses east Placer County and a bit of El Dorado County, but gains the communities of Galt and Lodi, which have asked to remain together in the same district with each other. These are smaller towns, not suburbs or cities, much like the small towns in adjoining foothill counties. There is some population that is shifted north from the leg of the FTHLL district that the Commission had extended into the Central Valley in the south to create a leg into the valley in the north, but this small amount does not change the character of the Foothills district. These communities of Galt, Lodi, Dogtown, etc., in the lower Mokelumne River watershed should be kept together with the foothills upstream. The district also includes several national forests and the water supply for many communities in the Bay Area.

| Proposed Changed District | Commission's First Draft | |
|---------------------------|--------------------------|--------|
| District Name | FTHLL | FTHLL |
| Population | 464315 | 463673 |
| Deviation Percent | -0.29% | -0.43% |
| LCVAP Percent | 15.22% | 12.54% |
| BCVAP Percent | 2.78% | 2.58% |

| District Name | STNSJ | n's First Draft STNSJ |
|-------------------|--------|--------------------------|
| Population | 460843 | 460647 |
| Deviation Percent | -1.04% | -1.08% |
| LCVAP Percent | 21.18% | 21.11% |
| BCVAP Percent | 2.81% | 2.75% |
| ACVAP Percent | 4.53% | 4.52% |

8) Merced

The Merced district has a direct swap in population with the Foothills district.

| Proposed Changed District | | Commission's First Draft |
|---------------------------|--------|--------------------------|
| District Name | MRCED | MRCED |
| Population | 462037 | 460967 |
| Deviation Percent | -0.78% | -1.01% |
| LCVAP Percent | 35.42% | 35.15% |
| BCVAP Percent | 4.67% | 4.66% |
| ACVAP Percent | 5.91% | 5.85% |

Other Small Changes to Two Very Good Districts

These small changes to two southern Sacramento County Assembly districts improve the population numbers of the districts and bring them into smaller population deviation. This is not a required part of the eight county population exchange. It appears that the Commission has a goal of less than 2% deviation, but this district had been 2.84%. The low density southwest part of Sacramento County has traditionally been associated with the section of the county south of Highway 50 and east of Highway 99. The low density southeastern part of the Commission's ELDO district was removed with Galt to the Foothills district so that Galt wasn't just tacked on to the foothills, but rather kept together with similar communities of interest and maintaining the integrity of the Dry Creek sub-watershed.

| Proposed Changed District | | Commission's First Draft |
|---------------------------|--------|--------------------------|
| District Name | ELDO | ELDO |
| Population | 458766 | 452428 |
| Deviation Percent | -1.48% | -2.84% |
| LCVAP Percent | 9.52% | 9.21% |
| BCVAP Percent | 6.79% | 6.60% |
| ACVAP Percent | 6.64% | 6.50% |

The Sacramento / Elk Grove District becomes almost the perfect size in terms of population, while respecting communities of interest boundaries.

| Proposed Changed District | Commission's |
|---------------------------|--------------|
|---------------------------|--------------|

| District Name | SACEG | n's First Draft SACEG |
|-------------------|--------|-----------------------|
| Population | 466251 | 469385 |
| Deviation Percent | 0.12% | 0.80% |
| LCVAP Percent | 16.81% | 16.84% |
| BCVAP Percent | 16.33% | 16.39% |
| ACVAP Percent | 22.67% | 22.52% |

The State Senate

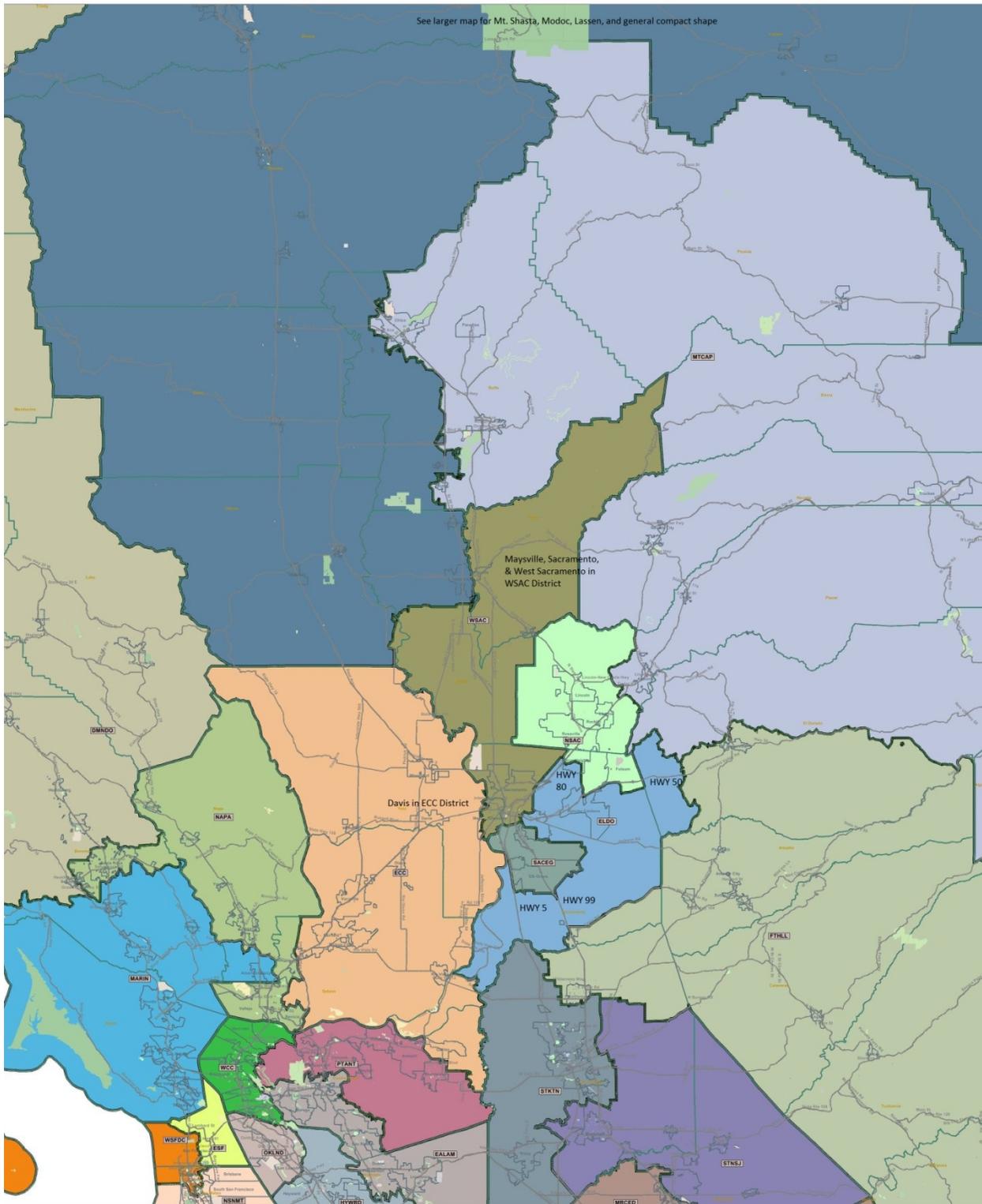
Since the Redistricting Commission is mostly combining two Assembly districts to form a State Senate district, the changes in the Assembly districts should be reflected in the State Senate districts. Also, the nesting in the two Sacramento County Senate Districts should be reversed: the two northern Assembly districts and the two southern Assembly districts in Sacramento County should be combined as northern and southern districts, instead of combining as eastern and western districts.

We have heard comments that the Commission needs to pay more attention to watersheds and transportation routes, two very important factors in community formation, when drawing districts. The two northern districts are on the Sacramento River and Highway 80, these would be better nested in one district. The two southern districts are on the American River and near the Delta. The two southern Assembly districts are on the Highway 50 and Highway 99 corridor. They belong in one senate district. These combinations would make the Sacramento Senate districts more diverse and more competitive.

SAN FRANCISCO BAY AND NORTH COAST

The Commission's Congressional districts for the San Francisco Bay and North Coast regions adequately serve their environmental communities of interest. The coastal areas have distinct climates and species that create different environmental issues from areas inland of the coastal mountain ranges. In particular, we note that the Commission kept communities of interest along the Route 24 and I-580 corridors together, which also parallel the Pittsburg and Livermore Bay Area Rapid Transit (BART) lines, respectively. In addition, county boundaries reinforce the grouping of these environmental communities of interest in the correct fashion, as done by the Commission.

ECC (Yolo), WSAC, Yuba, Mtcap, FTHLL, StanSJ, STKTN population exchange



Subject: Butte Yuba Nevada Plumas Sierra Tahoe Assembly District

From: Miquel <[REDACTED]>

Date: 6/28/2011 9:48 AM

To: "[REDACTED]" <[REDACTED]>

Commissioners

Please except my proposal for an Assembly District located in the Mid Sacramento Valley and the adjacent Northern Sierra & Lake Tahoe Region.

It is basically taking the Southern portion of your proposed MTCAP Assembly District and adding Yuba County to make a complete District population wise. I did include approximately 9000 new residents by extending the Placer Tahoe portion down I 80 to Colfax. This was only an attempt to create an exact District & wouldn't necessarily have to be done to make the 5% leeway that I understand you are working with. I also did a little modification to make sure that all persons in the El Dorado Tahoe Portion were in the District by moving the Boundary around Echo Lake into the Desolation Wilderness where the boundary would cut through forest. The northside of Hwy 50 boundary is a steep hillside backed by National Forest and no structures.

Feel Free to Contact me by email- or schedule me to provide more input at a hearing

Michael Worley

[REDACTED]

— Attachments: —

ButteYubaNevadaPlumasSierraTahoeAssemblyDist.pdf

375 KB

Butte Yuba Nevada Plumas Sierra Tahoe Assembly District

Michael Worley Chico, CA

[June 24, 2011]



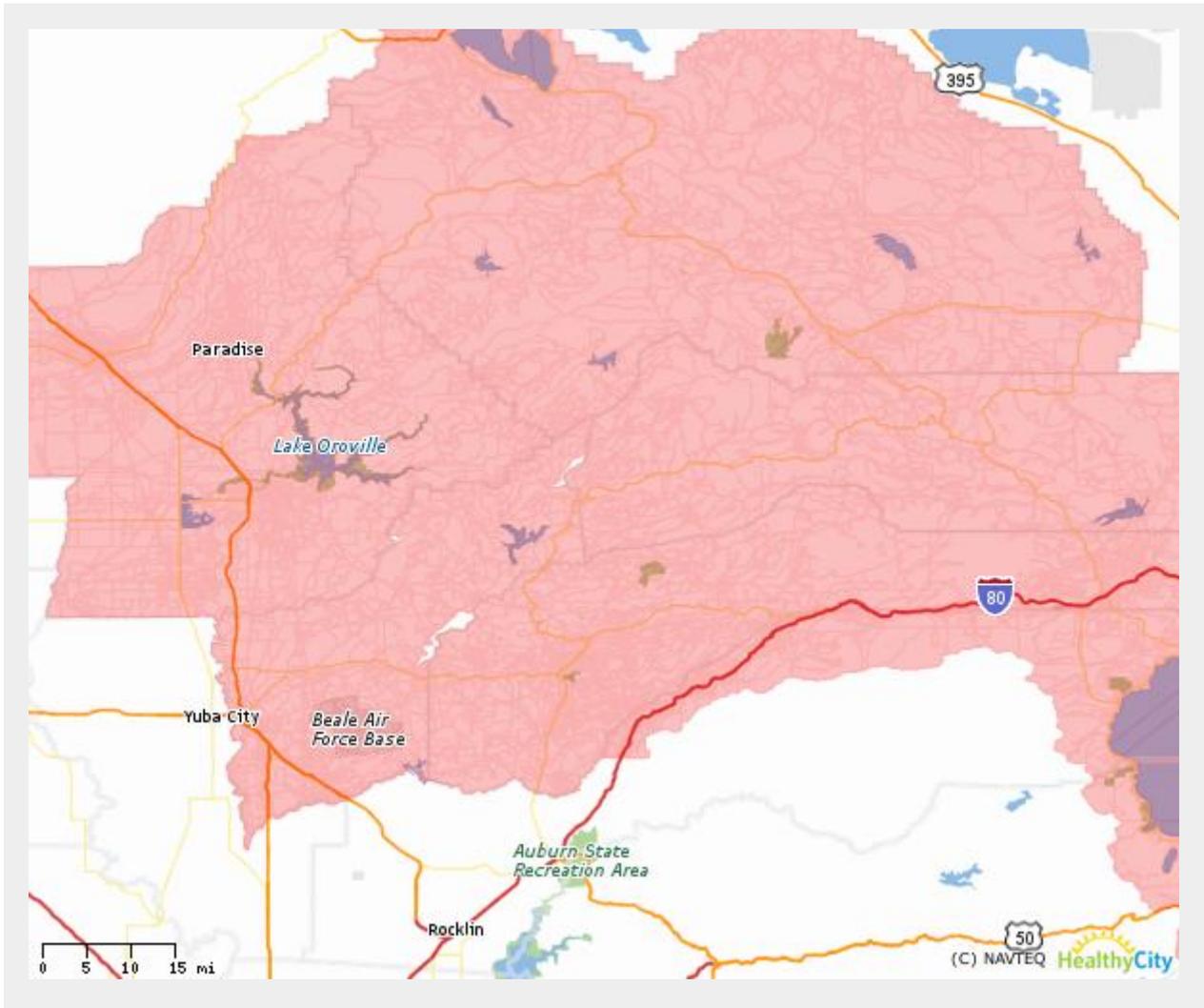
Butte Yuba Nevada Plumas Sierra Tahoe Assembly District

Describe your Community

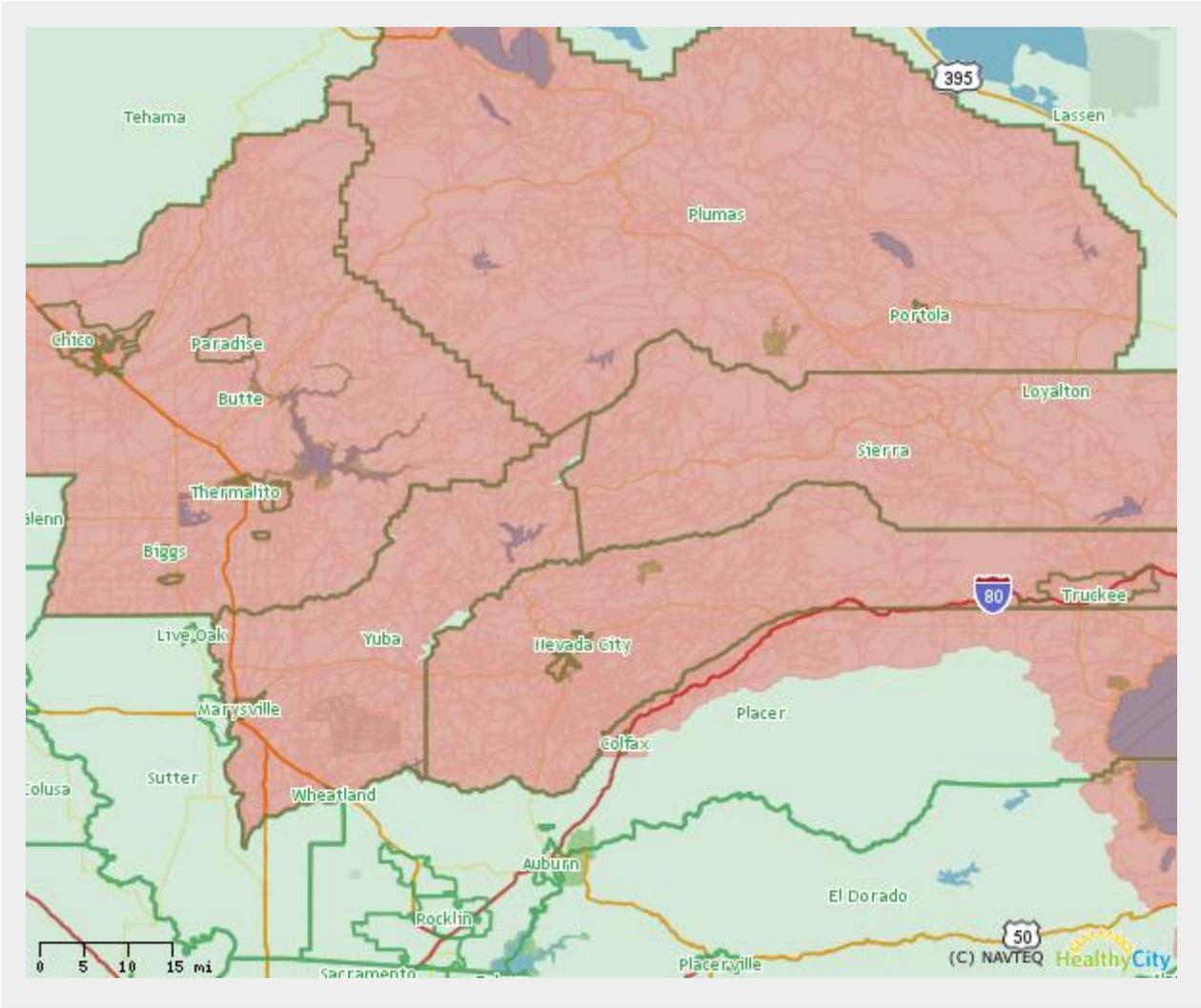
This map shows the Proposed Assembly District of Butte Yuba Nevada Plumas Sierra Tahoe. This district consists of the whole counties of Butte Yuba Nevada Plumas & Sierra plus the Tahoe portions of Placer & El Dorado. More broadly speaking it represents the CRC Assembly District of MTCAP w/ Lassen, Modoc & eastern Siskiyou Counties removed and Yuba County added. This makes both of the CRC proposed Districts more Compact for the vast majority of NE California's residents and maintains cultural and historic connections between Counties. This also reflects the connections that were forged politically over the last 20+ years. Butte, Yuba & Nevada Counties have been linked since the Gold Rush and were 3 of Ca original Counties. All 3 counties have a traditional economic mix of Mining, Timber, Manufacturing and Agriculture as opposed to the Agricultural and then Suburban Housing that predominates in the Counties to the West (Sutter, Colusa, Glenn). The region is also connected by Topography as it is the Yuba –Feather River Drainage Area plus the Truckee River Drainage to the East. The Counties to the North – Lassen& Modoc drain to the Pitt River or else the Black Rock Desert of Nevada while Eastern Siskiyou is divided between the Upper Sacramento River and the Klamath River. The Sacramento River which flows thru Siskiyou, Shasta, Tehama ,Glenn & Colusa and then between Colusa – Yolo and Sutter is controlled by the Federal Central Valley Project(Shasta Dam) while the Feather and Yuba Rivers are controlled by the CA State Water Project (Oroville Dam) or local Water Districts (Bullards Bar Dam). It is important in this area of origin that Watersheds and Bioregions not be unnecessarily divided

Things to consider:

- What city/county is it in?
- What are the boundaries (e.g. "this community spans from the 5 freeway on the east to the Pacific Ocean to the West")?
- Is it predominately urban, suburban, or rural?
- Does it include or border any lakes, rivers, or mountains?



Shows Counties & Major Cities



Redistricting Data

This comparison shows that the new District is comparable to the old District as far minority representation is concerned. The compactness of the District overcomes any disadvantage to Yuba County Hispanics over not being connected with Hispanic communities 50 to 100 miles away while not disadvantaging Hispanics in the old Yuba District. It also maintains historic connections between the African American & Chinese Communities of both Oroville and Marysville.

Population

Total Population: 465,695
 0.00% variance from ideal population
 Ideal Population: 465,675
 Original District: 467,506

Universe: Total Population
 Datasource: U.S. Census Bureau Decennial Census
 Data Year: 2010
 Data Level: Census Block

| | |
|--------------------------|---------|
| Total Population | 465,695 |
| Ideal | 465,675 |
| Variance | 0.00% |
| Original District | 467,506 |

Citizen Voting Age Population

8.23% Hispanic or Latino
 3.02% Asian
 2.73% American Indian/Alaska Native
 1.46% Black or African American
 0.19% Native Hawaiian/Pacific Islander Alone
 84.16% White Alone
 0.22% Two or More Races

Universe: Citizen Population 18 Years of Age or Older
 Datasource: Statewide Database at the University of California Berkeley
 Data Year: 2010
 Data Level: Census Block

| | My District 0 | Original District |
|---|-----------------|-------------------|
| Hispanic or Latino Citizen Voting Age Population | 8.23% 27,645 | 7.76% 26,870 |
| Asian | 3.02% 10,132 | 2.17% 7,519 |
| American Indian/Alaska Native | 2.73% 9,166 | 2.81% 9,734 |
| Black or African American | 1.46% 4,913 | 2.07% 7,169 |

| | | |
|--|-------------------|-------------------|
| Native Hawaiian/Pacific Islander Alone, Not Hispanic or Latino, Citizen Voting Age Population | 0.19% 623 | 0.18% 621 |
| White Alone, Not Hispanic or Latino, Citizen Voting Age Population | 84.16% 282,827 | 84.83% 293,900 |
| Citizen Voting Age Population Belonging to the Remainder of Two or More Races, Not Hispanic or Latino | 0.22% 739 | 0.19% 646 |

Ethnicity / Race



Universe: Total Population
 Datasource: U.S. Census Bureau Decennial Census
 Data Year: 2010
 Data Level: Census Block

Original District = Blue line

| | My District 0 | Original District |
|--|-------------------|-------------------|
| Hispanic or Latino | 15.09% 70,273 | 13.53% 63,265 |
| White alone | 75.30% 350,656 | 77.42% 361,959 |
| Black or African American alone | 1.29% 6,030 | 1.55% 7,255 |
| Asian | 3.72% 17,333 | 2.87% 13,429 |
| Some Other Race | 1.47% 6,863 | 1.71% 8,016 |
| Two or More Races | 3.12% 14,540 | 2.91% 13,582 |

Additional Information

Add your own anecdotes to support the main reason why this community is unique. Based on the research you've already done on ReDrawCA.org and on your own experience in this community, you might also want to consider discussing:

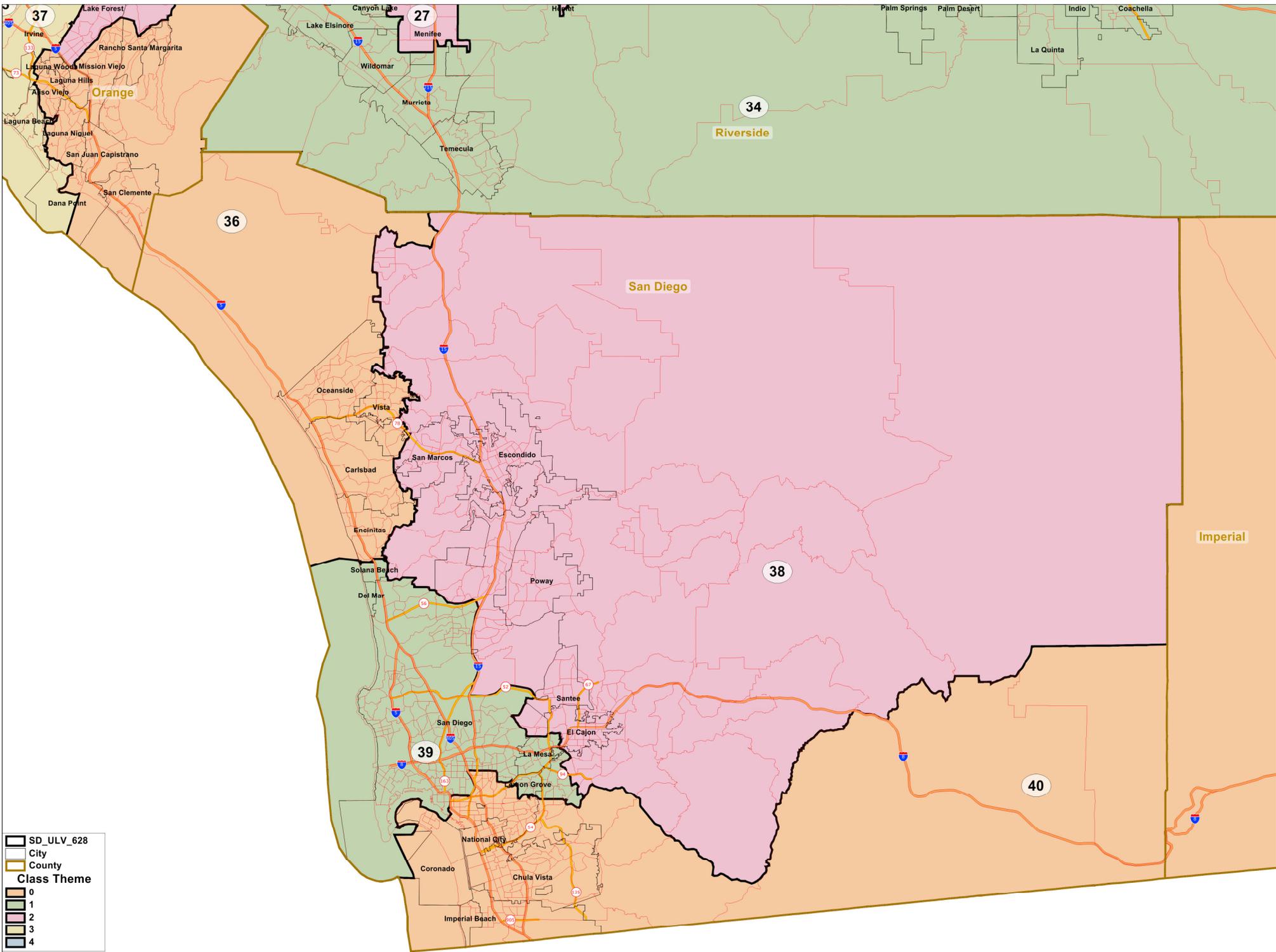
- representation and current districts
- social and economic factors
- changes happening in your community over time
- community assets, agencies and services that are available prominent groups and affiliations
- community identity, lifestyles, and interests

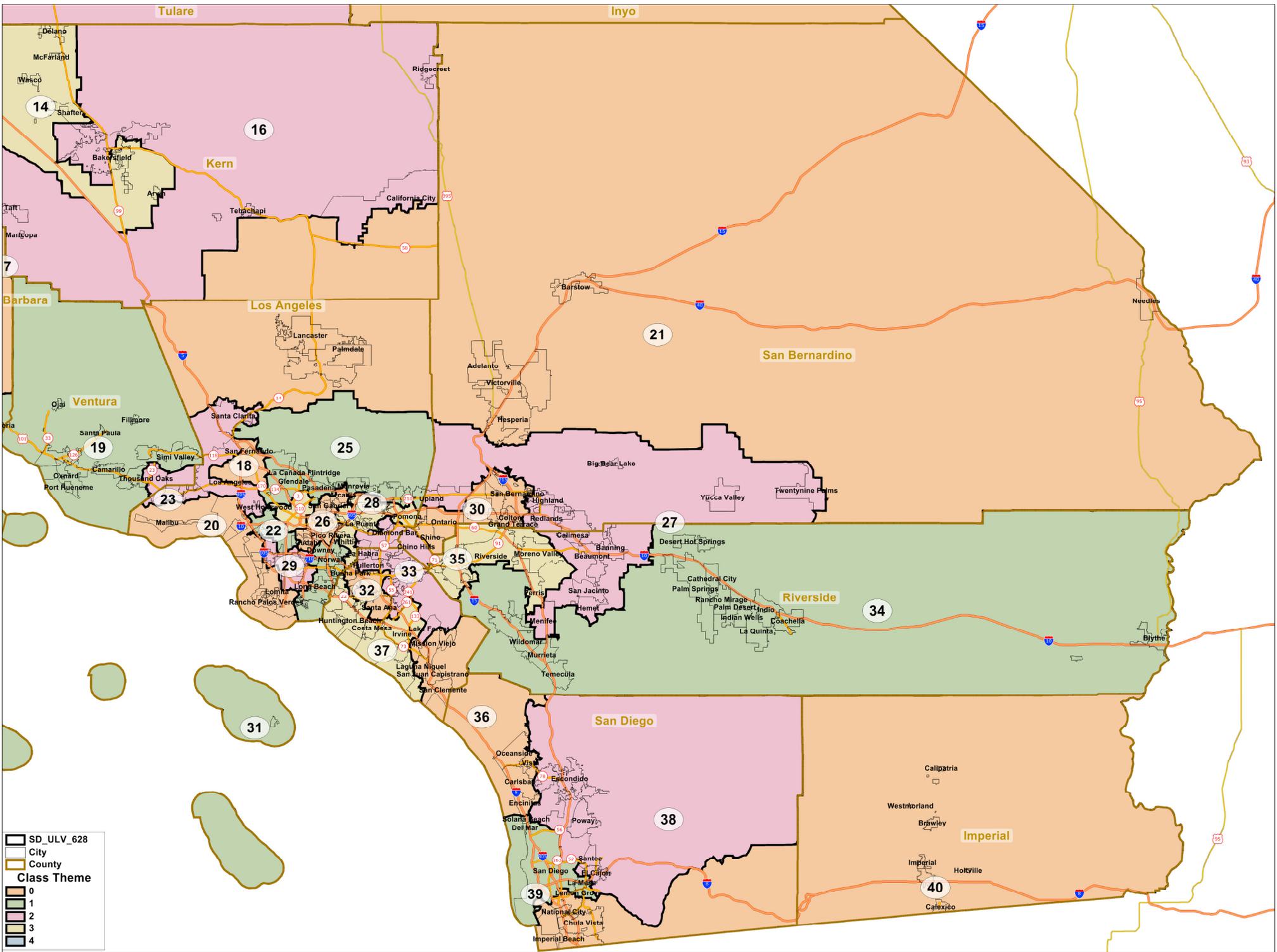
Not everything from this list will be relevant to your community, but highlight anything that helps demonstrate what residents value and what gaps and barriers exist.

Conclusion

Summarize your main points and restate your goal (to keep this community from being split up into multiple districts and to ensure the best representation possible for the people who live in this area).

| Proposed Senate | | | | 2010 Census PL94 | | | | 2009 5 Year ACS | | | | 2010 General Registration | |
|-----------------|------------|-----------|-------------|--------------------------------------|---------|---------|---------|--|---------|---------|---------|---------------------------|---------|
| District | Population | Deviation | % Deviation | DOJ Categories Voting Age Population | | | | DOJ Categories Citizen Voting Age Population | | | | Surname Matched | |
| | | | | % Latino | % White | % Black | % Asian | % Latino | % White | % Black | % Asian | % Spanish | % Asian |
| 01 | 931676 | 327 | 0.0% | 11.1% | 75.2% | 3.4% | 7.4% | 7.8% | 80.6% | 3.6% | 5.5% | 6.5% | 3.6% |
| 02 | 931106 | -243 | 0.0% | 13.5% | 76.7% | 1.4% | 4.7% | 8.6% | 82.7% | 1.5% | 3.6% | 7.4% | 2.4% |
| 03 | 930909 | -440 | 0.0% | 22.0% | 52.7% | 8.4% | 13.8% | 14.3% | 62.0% | 9.2% | 11.7% | 14.6% | 6.1% |
| 04 | ██████ | ██████ | 0.1% | 16.5% | 73.5% | 2.0% | 4.5% | 8.7% | 82.1% | 2.1% | 3.7% | 6.9% | 2.4% |
| 05 | 931931 | 582 | 0.1% | 31.1% | 43.8% | 7.4% | 15.0% | 22.3% | 54.5% | 8.3% | 12.5% | 21.4% | 7.5% |
| 06 | ██████ | ██████ | 0.3% | 20.6% | 49.5% | 11.4% | 14.7% | 14.3% | 58.6% | 12.2% | 11.9% | 13.2% | 6.8% |
| 07 | 930767 | -582 | -0.1% | 16.8% | 59.2% | 5.6% | 16.3% | 11.0% | 69.1% | 5.8% | 12.3% | 9.9% | 8.2% |
| 08 | ██████ | ██████ | 0.2% | 28.3% | 56.8% | 3.9% | 8.2% | 22.3% | 65.1% | 4.2% | 5.9% | 19.9% | 3.9% |
| 09 | 931896 | 547 | 0.1% | 21.3% | 35.4% | 19.3% | 21.4% | 12.4% | 43.7% | 23.6% | 18.1% | 11.4% | 11.6% |
| 10 | 931929 | 580 | 0.1% | 20.8% | 29.2% | 4.9% | 42.3% | 16.3% | 41.4% | 6.2% | 33.8% | 17.5% | 24.5% |
| 11 | 930973 | -376 | 0.0% | 14.9% | 40.9% | 5.6% | 36.6% | 11.0% | 48.7% | 6.9% | 31.9% | 11.6% | 20.0% |
| 12 | 924866 | -6483 | -0.7% | 54.6% | 34.6% | 2.9% | 6.0% | 39.0% | 49.5% | 3.8% | 5.7% | 38.6% | 4.4% |
| 13 | 930203 | -1146 | -0.1% | 17.8% | 51.4% | 2.4% | 25.9% | 11.2% | 63.0% | 3.4% | 20.7% | 9.7% | 15.0% |
| 14 | 930468 | -881 | -0.1% | 65.8% | 21.4% | 6.1% | 5.1% | 50.1% | 34.2% | 9.1% | 4.8% | 50.9% | 3.5% |
| 15 | ██████ | ██████ | 0.1% | 30.9% | 35.6% | 3.2% | 28.5% | 23.0% | 46.3% | 3.6% | 25.7% | 20.2% | 20.3% |
| 16 | ██████ | ██████ | 0.2% | 39.7% | 50.0% | 3.5% | 4.5% | 28.5% | 61.8% | 4.1% | 3.3% | 24.4% | 2.6% |
| 17 | 941778 | 10429 | 1.1% | 26.0% | 63.8% | 2.3% | 5.8% | 15.7% | 74.5% | 2.7% | 4.9% | 13.9% | 3.2% |
| 18 | 931532 | 183 | 0.0% | 59.1% | 24.7% | 4.3% | 10.8% | 45.2% | 36.4% | 6.2% | 11.1% | 43.5% | 6.4% |
| 19 | 930830 | -519 | -0.1% | 36.2% | 53.1% | 1.8% | 7.3% | 24.5% | 65.2% | 2.2% | 6.4% | 21.9% | 4.0% |
| 20 | 928472 | -2877 | -0.3% | 20.3% | 57.6% | 4.0% | 16.4% | 16.3% | 65.2% | 4.4% | 12.7% | 13.0% | 8.8% |
| 21 | ██████ | ██████ | 0.1% | 35.9% | 46.2% | 11.1% | 4.2% | 26.7% | 55.7% | 11.7% | 3.3% | 22.4% | 2.3% |
| 22 | 928587 | -2762 | -0.3% | 44.7% | 18.9% | 27.4% | 7.3% | 26.4% | 25.7% | 40.4% | 6.2% | 22.8% | 4.4% |
| 23 | ██████ | ██████ | 0.1% | 15.3% | 67.3% | 3.4% | 12.6% | 11.3% | 74.8% | 3.8% | 9.0% | 9.4% | 6.0% |
| 24 | ██████ | ██████ | 0.1% | 57.6% | 16.1% | 5.2% | 20.0% | 45.8% | 24.9% | 8.8% | 18.9% | 45.7% | 12.2% |
| 25 | ██████ | ██████ | 0.3% | 21.5% | 57.5% | 4.9% | 14.6% | 18.7% | 63.1% | 6.0% | 11.1% | 16.0% | 7.1% |
| 26 | 928780 | -2569 | -0.3% | 62.3% | 8.9% | 0.7% | 27.5% | 55.7% | 14.5% | 0.9% | 28.0% | 55.8% | 20.2% |
| 27 | 927686 | -3663 | -0.4% | 29.2% | 55.8% | 6.0% | 6.9% | 22.9% | 64.3% | 5.8% | 5.1% | 19.4% | 3.3% |
| 28 | 928552 | -2797 | -0.3% | 61.7% | 18.6% | 3.1% | 15.6% | 54.2% | 26.5% | 4.4% | 13.9% | 51.6% | 9.7% |
| 29 | 928519 | -2830 | -0.3% | 51.1% | 9.0% | 26.2% | 11.3% | 35.4% | 13.8% | 37.3% | 11.2% | 33.4% | 6.4% |
| 30 | 932170 | 821 | 0.1% | 61.2% | 21.2% | 10.1% | 6.0% | 48.7% | 31.2% | 13.3% | 5.0% | 44.6% | 3.6% |
| 31 | 927955 | -3394 | -0.4% | 46.9% | 29.0% | 7.6% | 14.7% | 37.9% | 38.0% | 8.7% | 13.7% | 35.2% | 7.9% |
| 32 | ██████ | ██████ | 0.1% | 55.6% | 21.4% | 2.1% | 19.5% | 38.2% | 36.4% | 3.2% | 20.6% | 37.9% | 16.7% |
| 33 | 930652 | -697 | -0.1% | 25.7% | 45.2% | 2.1% | 25.7% | 19.4% | 56.0% | 2.7% | 20.7% | 17.8% | 14.7% |
| 34 | 927373 | -3976 | -0.4% | 36.0% | 52.7% | 3.9% | 5.7% | 25.6% | 63.5% | 4.5% | 4.5% | 22.8% | 2.6% |
| 35 | 927607 | -3742 | -0.4% | 46.8% | 33.4% | 9.1% | 8.8% | 34.9% | 45.1% | 11.0% | 7.1% | 31.6% | 4.5% |
| 36 | ██████ | ██████ | 0.2% | 20.4% | 67.1% | 2.3% | 8.3% | 13.3% | 76.0% | 2.6% | 6.5% | 10.4% | 4.4% |
| 37 | ██████ | ██████ | 0.3% | 14.5% | 57.3% | 1.4% | 25.2% | 11.0% | 66.6% | 1.5% | 19.6% | 9.0% | 15.4% |
| 38 | ██████ | ██████ | 0.2% | 21.6% | 64.5% | 2.6% | 9.1% | 13.8% | 74.4% | 2.9% | 6.8% | 11.4% | 4.2% |
| 39 | ██████ | ██████ | 0.2% | 17.3% | 60.1% | 5.3% | 15.2% | 12.7% | 69.2% | 5.1% | 11.3% | 11.0% | 6.7% |
| 40 | ██████ | ██████ | 0.2% | 56.7% | 20.9% | 7.7% | 12.7% | 45.2% | 29.7% | 10.4% | 12.6% | 46.8% | 6.1% |





SD_ULV_628

- City
- County

Class Theme

- 0
- 1
- 2
- 3
- 4

| Proposed Senate | | | | 2010 Census PL94 | | | | 2009 5 Year ACS | | | | 2010 General Registration | |
|-----------------|------------|-----------|-------------|--------------------------------------|---------|---------|---------|--|---------|---------|---------|---------------------------|---------|
| District | Population | Deviation | % Deviation | DOJ Categories Voting Age Population | | | | DOJ Categories Citizen Voting Age Population | | | | Surname Matched | |
| | | | | % Latino | % White | % Black | % Asian | % Latino | % White | % Black | % Asian | % Spanish | % Asian |
| 01 | 931676 | 327 | 0.0% | 11.1% | 75.2% | 3.4% | 7.4% | 7.8% | 80.6% | 3.6% | 5.5% | 6.5% | 3.6% |
| 02 | 931106 | -243 | 0.0% | 13.5% | 76.7% | 1.4% | 4.7% | 8.6% | 82.7% | 1.5% | 3.6% | 7.4% | 2.4% |
| 03 | 930909 | -440 | 0.0% | 22.0% | 52.7% | 8.4% | 13.8% | 14.3% | 62.0% | 9.2% | 11.7% | 14.6% | 6.1% |
| 04 | ██████ | ██████ | 0.1% | 16.5% | 73.5% | 2.0% | 4.5% | 8.7% | 82.1% | 2.1% | 3.7% | 6.9% | 2.4% |
| 05 | 931931 | 582 | 0.1% | 31.1% | 43.8% | 7.4% | 15.0% | 22.3% | 54.5% | 8.3% | 12.5% | 21.4% | 7.5% |
| 06 | ██████ | ██████ | 0.3% | 20.6% | 49.5% | 11.4% | 14.7% | 14.3% | 58.6% | 12.2% | 11.9% | 13.2% | 6.8% |
| 07 | 930767 | -582 | -0.1% | 16.8% | 59.2% | 5.6% | 16.3% | 11.0% | 69.1% | 5.8% | 12.3% | 9.9% | 8.2% |
| 08 | ██████ | ██████ | 0.2% | 28.3% | 56.8% | 3.9% | 8.2% | 22.3% | 65.1% | 4.2% | 5.9% | 19.9% | 3.9% |
| 09 | 931896 | 547 | 0.1% | 21.3% | 35.4% | 19.3% | 21.4% | 12.4% | 43.7% | 23.6% | 18.1% | 11.4% | 11.6% |
| 10 | 931929 | 580 | 0.1% | 20.8% | 29.2% | 4.9% | 42.3% | 16.3% | 41.4% | 6.2% | 33.8% | 17.5% | 24.5% |
| 11 | 930973 | -376 | 0.0% | 14.9% | 40.9% | 5.6% | 36.6% | 11.0% | 48.7% | 6.9% | 31.9% | 11.6% | 20.0% |
| 12 | 924866 | -6483 | -0.7% | 54.6% | 34.6% | 2.9% | 6.0% | 39.0% | 49.5% | 3.8% | 5.7% | 38.6% | 4.4% |
| 13 | 930203 | -1146 | -0.1% | 17.8% | 51.4% | 2.4% | 25.9% | 11.2% | 63.0% | 3.4% | 20.7% | 9.7% | 15.0% |
| 14 | 930468 | -881 | -0.1% | 65.8% | 21.4% | 6.1% | 5.1% | 50.1% | 34.2% | 9.1% | 4.8% | 50.9% | 3.5% |
| 15 | ██████ | ██████ | 0.1% | 30.9% | 35.6% | 3.2% | 28.5% | 23.0% | 46.3% | 3.6% | 25.7% | 20.2% | 20.3% |
| 16 | ██████ | ██████ | 0.2% | 39.7% | 50.0% | 3.5% | 4.5% | 28.5% | 61.8% | 4.1% | 3.3% | 24.4% | 2.6% |
| 17 | 941778 | 10429 | 1.1% | 26.0% | 63.8% | 2.3% | 5.8% | 15.7% | 74.5% | 2.7% | 4.9% | 13.9% | 3.2% |
| 18 | 931532 | 183 | 0.0% | 59.1% | 24.7% | 4.3% | 10.8% | 45.2% | 36.4% | 6.2% | 11.1% | 43.5% | 6.4% |
| 19 | 930830 | -519 | -0.1% | 36.2% | 53.1% | 1.8% | 7.3% | 24.5% | 65.2% | 2.2% | 6.4% | 21.9% | 4.0% |
| 20 | 928472 | -2877 | -0.3% | 20.3% | 57.6% | 4.0% | 16.4% | 16.3% | 65.2% | 4.4% | 12.7% | 13.0% | 8.8% |
| 21 | ██████ | ██████ | 0.1% | 35.9% | 46.2% | 11.1% | 4.2% | 26.7% | 55.7% | 11.7% | 3.3% | 22.4% | 2.3% |
| 22 | 928587 | -2762 | -0.3% | 44.7% | 18.9% | 27.4% | 7.3% | 26.4% | 25.7% | 40.4% | 6.2% | 22.8% | 4.4% |
| 23 | ██████ | ██████ | 0.1% | 15.3% | 67.3% | 3.4% | 12.6% | 11.3% | 74.8% | 3.8% | 9.0% | 9.4% | 6.0% |
| 24 | ██████ | ██████ | 0.1% | 57.6% | 16.1% | 5.2% | 20.0% | 45.8% | 24.9% | 8.8% | 18.9% | 45.7% | 12.2% |
| 25 | ██████ | ██████ | 0.3% | 21.5% | 57.5% | 4.9% | 14.6% | 18.7% | 63.1% | 6.0% | 11.1% | 16.0% | 7.1% |
| 26 | 928780 | -2569 | -0.3% | 62.3% | 8.9% | 0.7% | 27.5% | 55.7% | 14.5% | 0.9% | 28.0% | 55.8% | 20.2% |
| 27 | 927686 | -3663 | -0.4% | 29.2% | 55.8% | 6.0% | 6.9% | 22.9% | 64.3% | 5.8% | 5.1% | 19.4% | 3.3% |
| 28 | 928552 | -2797 | -0.3% | 61.7% | 18.6% | 3.1% | 15.6% | 54.2% | 26.5% | 4.4% | 13.9% | 51.6% | 9.7% |
| 29 | 928519 | -2830 | -0.3% | 51.1% | 9.0% | 26.2% | 11.3% | 35.4% | 13.8% | 37.3% | 11.2% | 33.4% | 6.4% |
| 30 | 932170 | 821 | 0.1% | 61.2% | 21.2% | 10.1% | 6.0% | 48.7% | 31.2% | 13.3% | 5.0% | 44.6% | 3.6% |
| 31 | 927955 | -3394 | -0.4% | 46.9% | 29.0% | 7.6% | 14.7% | 37.9% | 38.0% | 8.7% | 13.7% | 35.2% | 7.9% |
| 32 | ██████ | ██████ | 0.1% | 55.6% | 21.4% | 2.1% | 19.5% | 38.2% | 36.4% | 3.2% | 20.6% | 37.9% | 16.7% |
| 33 | 930652 | -697 | -0.1% | 25.7% | 45.2% | 2.1% | 25.7% | 19.4% | 56.0% | 2.7% | 20.7% | 17.8% | 14.7% |
| 34 | 927373 | -3976 | -0.4% | 36.0% | 52.7% | 3.9% | 5.7% | 25.6% | 63.5% | 4.5% | 4.5% | 22.8% | 2.6% |
| 35 | 927607 | -3742 | -0.4% | 46.8% | 33.4% | 9.1% | 8.8% | 34.9% | 45.1% | 11.0% | 7.1% | 31.6% | 4.5% |
| 36 | ██████ | ██████ | 0.2% | 20.4% | 67.1% | 2.3% | 8.3% | 13.3% | 76.0% | 2.6% | 6.5% | 10.4% | 4.4% |
| 37 | ██████ | ██████ | 0.3% | 14.5% | 57.3% | 1.4% | 25.2% | 11.0% | 66.6% | 1.5% | 19.6% | 9.0% | 15.4% |
| 38 | ██████ | ██████ | 0.2% | 21.6% | 64.5% | 2.6% | 9.1% | 13.8% | 74.4% | 2.9% | 6.8% | 11.4% | 4.2% |
| 39 | ██████ | ██████ | 0.2% | 17.3% | 60.1% | 5.3% | 15.2% | 12.7% | 69.2% | 5.1% | 11.3% | 11.0% | 6.7% |
| 40 | ██████ | ██████ | 0.2% | 56.7% | 20.9% | 7.7% | 12.7% | 45.2% | 29.7% | 10.4% | 12.6% | 46.8% | 6.1% |